Workers' Compensation Act Review

List of Issues Brought Forward

2003-04

Yukon
Government

Version française sur demande.

Message from the Chair

Thank you for your interest and involvement in the review of the Yukon *Workers' Compensation Act*. Your participation is essential in addressing how the Act should be amended to best serve the needs of all stakeholders.

The first step of the review was to identify topics for review. Those topics are included in this booklet. As well as issues mandated by the 1999 Review and suggestions from the Auditor General and the review panel, the list has grown to include topics raised by stakeholders and other Yukoners. The panel has taken steps to identify and describe each issue in a non-biased way and without taking a position on any of them.

Now we need to hear your positions and points of view on these issues. We encourage you to comment on any of the identified topics. Please indicate whether you feel the current Act addresses the issues to your satisfaction. The review panel also invites you to tell us how you feel the Act should be amended to best serve the needs of all Yukoners.

The panel recognizes that workers' compensation is complex and involved, and we don't expect you to have the knowledge or interest to comment on every issue. However, if you provide in a general way your views on various topics on our list, it would be very helpful to the panel and the review process. The panel will research each issue identified for review.

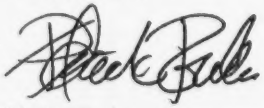
Please respond by July 25, 2003. The panel will compile your input into a paper that we will present to the Minister Responsible for the Workers' Compensation Health and Safety Board. The document will also be available to the public.

Based on your input and in consideration of the principles behind the workers' compensation system, trends in provincial and territorial workers' compensation and recent court decisions, the panel will then create an options paper to address the issues identified. You will have an opportunity to comment on this document this fall.

Please remember that the workers' compensation system is based on compromise, and there will need to be continued compromise for this process to be successful.

I look forward to continuing to work with you throughout this review process.

Patrick Rouble



Chair, Workers' Compensation Act Review Panel

Issues List...

What follows is a list of issues that stakeholders, other interested parties, the 1999 Review, the Auditor General and the panel have identified as areas of concern with the *Workers' Compensation Act*.

The panel received 15 submissions, identifying more than 100 issues, from various individuals, groups and organizations. The submissions are included as an appendix in this document. The panel compiled all issues submitted and wherever possible grouped similar issues under a common heading. Some issues raised were outside the scope of the review as they dealt with very specific situations, dealt with other pieces of legislation such as the *Occupational Health and Safety Act*, or did not reflect the principles of workers' compensation.

Some submissions included a position or a recommendation on an issue. In these instances the panel identified the root issue for discussion. The panel made a considered attempt to present the issues in a fair, unbiased manner and refrained from including comments or recommendations.

For many of the issues we have included references from the Act to identify how the legislation currently addresses the issue. We believe the references to be accurate, but it is not an exact representation of the Act and should not be taken as law, nor is it a complete reproduction of the Act. Electronic copies of the act can be obtained from our Web site at www.wcbactreview.gov.yk.ca. Alternatively, you can get paper copies from the Workers' Compensation Office, Law Library, Workers' Advocate office, Employer Consultant's office or from the Yukon government's main Inquiry Centre. If you live in a Yukon community outside of Whitehorse and need a copy of the Act, please contact us and we will arrange to have one sent to you.

When submitting your suggestions, please indicate to which section of the Act your issues apply.

There is a submission form included at the end of the list of issues that you can use to send us your comments, or you can submit online at our Web site or via email. You'll find the contact information on the submission form.

Please remember: the overall question we want to address in this review is, 'How should the *Workers' Compensation Act* be amended to serve the needs of all stakeholders to the greatest extent possible?'

OBJECTS & PART 1: ELIGIBILITY FOR COMPENSATION

Issue No.	Issue Raised	Act References	Act Quotes
1	**Process to lodge administrative complaints** One of the objects of the Act is to ensure that workers, dependants of deceased workers and employers are treated with compassion, respect and fairness.	1.1 (h) 92.1 (a)	**Objects** **1.(1)** The objects of this Act are **(h)** to ensure that workers, dependants of deceased workers and employers are treated with compassion, respect and fairness. **Eligibility for compensation** **3.(1)** A worker who suffers a work-related disability is entitled to compensation unless the disability is attributable to conduct deliberately undertaken for the purpose of receiving compensation. **(2)** Compensation for loss of earnings shall not be paid if a worker is 65 years of age or over **(3)** Despite subsection (2), where a worker is at least 63 years of age or over when a work-related disability arises, the board may pay compensation for loss of earnings to the worker for a period of up to 24 months. **Designation of workers by government** **4.1(1)** The following persons or classes of persons are designated as workers employed by the Government of the Yukon: **(d)** persons who assist in connection with an emergency that has been declared to exist by a mayor of a municipality or by the Commissioner in Executive Council; **Suspension or reduction of compensation** **7.(1)** The board may suspend or reduce compensation payable to or in respect of a worker, if the worker **(a)** following consultation with the worker and the worker's medical practitioner unreasonably refuses to submit to treatment or rehabilitation the board considers essential to the worker's recovery or rehabilitation, **(b)** unreasonably takes part in any activity that imperils or delays recovery from the disability, or **(c)** unreasonably changes medical practitioners. **Duties of the board** **92.1** The duties of the board are to **(a)** ensure that workers, dependants of deceased workers and employers are treated with compassion, respect and fairness,
2	**Age limitation of claimants** Currently, compensation ceases at 65 years of age unless a worker is injured after the age of 63 in which case they are entitled to 24 months of benefits for loss of earnings.	3	
3	**How government consents/accepts responsibility for volunteers** Volunteers are covered by compensation if they are within set groupings or the Government of Yukon determines them to be volunteers. Currently there is no specific public listing of who is or is not covered as volunteers. A method of how the Government of Yukon consents to volunteers being workers also is not included in the Act.	4.1(d)	
4	**Termination of benefits** Currently the board may suspend or reduce compensation payable to or in respect of a worker based on s.7. (1) of the Act.	7.(1)	
5	**Benefits during appeal period** The board is a third party independent decision-maker. Making decisions based on the facts and legislation and not bias to either the employer or worker. Currently, the board makes a decision and implements it. If either the worker or employer objects, they appeal. However, the decision of the board remains in place until it is altered by a hearing body.	7 .(1)	

PART 2: CLAIMS PROCEDURE

Issue No.	Issue Raised	Act References	Act Quotes
6	**Board's notice to employer of a claim for compensation** The Act is currently silent on this issue. • Workers are required to notify the board and the employer of an injury. • Employers are required to notify the board if they have knowledge of an injury. • Doctors/hospitals are required to notify the board if they have knowledge of a workplace injury.	8 9 10	**Worker's notice to employer** **8.(1)** A worker who suffers, or may have suffered, a work-related disability, or a dependant of a deceased worker, shall give the employer of the worker written notice of the disability within a reasonable time, setting out **(a)** the name and address of the worker, **(b)** the name and address of the person giving the notice, if different, and **(c)** a description of the cause of the disability. **(2)** If notice is not provided as required under this section compensation shall not be paid for the disability unless the board permits otherwise. **Worker's notice to the board** **9.(1)** A claim for compensation must be made in a form acceptable to the board within 12 months of the date the disability arose. **(2)** Despite subsection (1), the board may allow a late application. **Employer's notice to the board** **10.(1)** Employers shall give written notice to the board of any, or the possibility of any, work-related disability that comes to their attention within three days of receiving such information, and shall **(a)** describe the circumstances giving rise to the disability, and **(b)** send a copy of the notice to the worker. **(2)** Employers shall provide the board, within a reasonable time, with any further information requested regarding the disability. **(3)** If an employer fails to provide any notice or information within the time required by this section, the board may **(a)** conduct an investigation and recover the costs of the investigation from the employer as a debt due from the employer, the enforcement of which shall be done in the same manner as the enforcement of the payment of an assessment, **(b)** commence adjudication of the worker's claim, and **(c)** levy a penalty of up to $500 against the employer, the payment of which may be enforced in the same manner as an assessment. **(4)** The employer of a worker who has suffered a work-related disability shall immediately notify the board in writing if the worker returns to work, or if the employer has knowledge that the worker is able to return to work and does not do so. **(5)** The board may waive the time limits under this section.
	Worker Advocate – see Part 10		
7	**Recourse to review Workers' Advocate decisions under Section 11.1 (3)** Currently, there is no right of review of the Workers' Advocate's decision.	11.1 (3)	
8	**Annual reporting of the Workers' Advocate** The Auditor General identified the annual reporting of the Workers' Advocate as an issue.	11.1 (6)	
9	**Limitation periods** Workers must make a claim for compensation within 12 months of the date the disability (workplace incapacity) arose. There is no specified time frame in which to appeal written decisions.	9 11 17 18 98	
10	**Decisions must be in keeping with the Act & policies** At times the policy, regulation and the Act are inconsistent with the Act.	18.3 (12) 18.5 (1)	

11	**Process of dealing with new evidence** The decision-making hierarchy at the Workers' Compensation Board is: adjudicator, Hearing Officer and then Appeal Tribunal. Therefore, once an adjudicator makes a decision only the adjudicator or the Hearing Officer can overturn it, and once the Hearing Officer makes a decision only the Hearing Officer or the Appeal Tribunal can overturn it. A situation arises when new evidence comes forward (that may alter the original adjudicator's decision) after the issue has been heard by the Hearing Officer or Appeal Tribunal.	11 17 18	**Worker's notice to the board** **9.(1)** A claim for compensation must be made in a form acceptable to the board within 12 months of the date the disability arose. **(2)** Despite subsection (1), the board may allow a late application. **Application for compensation** **11.** A claim for compensation shall be dealt with and determined in the first instance on behalf of the board by an adjudicator employed by the board. **Workers' advocate** **11.1(3)** The workers' advocate may refuse to perform any or all of the duties under subsection (2) where, in the opinion of the workers' advocate **(a)** no legitimate claim for compensation can be advanced by or on behalf of the worker or the dependants of a deceased worker, or **(b)** the expectations of the worker or the dependants of a deceased worker are unreasonable in the circumstances of the claim. **(6)** Within 90 days after the end of each calendar year, the workers' advocate shall submit a report summarizing his or her activities in the preceding year and accounting for expenditures in that year to the Minister of Justice who shall make the report available to the board, organizations representing employers and workers and the public. **Medical consultant** **14.1** In accordance with paragraph 100(1)(c.2), the president shall appoint one or more medical consultants to **(a)** provide ongoing educational and advisory assistance to the board on medical matters generally, **(b)** advise the board with respect to medical issues involved in claims for compensation, and **(c)** perform such other duties related to medical issues as determined by the president. **Independent medical examination** **16.(7)** A worker who has made a claim for compensation or, in the case of a deceased worker, the dependant of a deceased worker who claims compensation who has represented to the board that **(a)** the worker suffers or suffered a greater functional impairment than that decided by an adjudicator or hearing officer, **(b)** the worker suffers or suffered a greater limitation in working capacity than that decided by an adjudicator or hearing officer, or **(c)** the decision of the adjudicator or hearing officer was based on a medical practitioner's report that was erroneous or incomplete, may, in writing, request the appeal committee to order an independent medical examination be undertaken or independent medical opinion be provided in accordance with subsections (2) and (3)
12	**Mediation as an effective method of primary dispute resolution** The appeal system is the formal and legalistic method to address disagreements with claims for compensation.	11 17 18	
13	**Administration standing at hearings** Currently a worker, a dependant of a deceased worker, or the worker's employer may appeal a decision made under section 17 to the appeal tribunal. The Act identifies that only workers or their dependents and employers are parties to hearings.	17 18	
14	**Process for release of claims information** Intended to ensure all and only the information relevant to an issue of appeal is released.	19. (1)	
15	**"Documents in respect of their claim" access to claim file** Currently the Act calls for the release to a worker, or the dependant of a deceased worker all information in the possession of the board in respect of their claim.	19.(1)	

16	**Implementation of the decision of the appeal tribunal timeframe** After the Hearing Officer or Appeal Tribunal renders its decision the board has 30 calendar days to implement the decision or have an implementation plan in place.	19	**Review by hearing officer** **17.(1)** Upon the written request of a worker, a dependant of a deceased worker, or an employer, a hearing officer or a panel of hearing officers shall review any decision made concerning a claim for compensation under section 11. **(2)** No person involved in the determination of the claim under section 11 shall be appointed under subsection (1). **(3)** When reviewing a decision, the hearing officer or panel of hearing officers shall **(a)** provide all parties with an opportunity to make representations, **(b)** provide a hearing, if requested by any party, **(c)** consider the entire record of the claim in the board's possession, **(d)** consider further evidence deemed necessary to make a decision, and **(e)** confirm, vary, or reverse any decision made in respect of the claim. **(4)** A determination of a review commenced under subsection (1) shall be made within the time prescribed by the regulations. **Appeal of a claim** **18.(1)** A worker, a dependant of a deceased worker, or the worker's employer may appeal a decision made under section 17 to the appeal tribunal. **(2)** When considering an appeal, the appeal committee shall **(a)** give the worker, a dependant of a deceased worker, or the worker's employer the right to be heard and an opportunity to present new or additional evidence, **(b)** consider the entire record of the claim in the board's possession, and **(c)** consider further evidence as it deems necessary to make a decision. **(3)** A decision on an appeal commenced under subsection (1) must be made within the time prescribed by the regulations. **(4)** Notwithstanding subsection (3), at the discretion of the chair, the appeal committee may extend the time for a decision where a worker, a dependant of a deceased worker or the worker's employer requests a delay or where an extension is necessary in the circumstances. **(5)** If an extension is made under subsection (4), the chair of the appeal committee shall notify the worker, the dependant of a deceased worker, the worker's employer and the board of the extension and provide written reasons for the same. **Appeal committee** **18.3 (8)** Where the members of the board consider that an appeal committee has not properly applied the policies established by the board, or has failed to comply with the provisions of the Act or the regulations, the members of the board may, in writing and with reasons, direct the appeal committee to rehear the appeal and give fair and reasonable consideration to such policies and provisions. **(12)** The decision of the appeal committee resulting from a rehearing of an appeal pursuant to a direction under subsection (8) is final, unless a court determines under subsection 18.5(1) that the policy in question is consistent with the Act.
17	**Term "adjudicator"** The Act refers to decisions made by an adjudicator and rights to appeal decisions of adjudicators. Titles have changed; adjudicators have specialized and are now comprised of disability case managers, auxiliary adjudicator, senior adjudicator, benefit entitlement clerk, etc. With organizational changes, and in situations of conflict of interest, people other than adjudicators are making decisions and making statements that have the effect of being decisions.	11 16 (7) 17 19.4 19.5 98.1	
18	**Gender choice for medical consultant** The Act is currently silent on this issue.	14.1	
19	**Board ability to seek clarification of decisions** Currently the board may stay and refer back to the Tribunal decisions, which in their opinion, do not comply with Act, regulations or policies.	18.3 (8)	

20	**Jurisdiction of Appeal Tribunal** Currently the Appeal Tribunal hears claim issues under s. 7(1), 17.(1) and 19(4) Currently an appeal panel of the Board of Directors hears assessment and OH&S appeals. Currently any and all adjudicators' decisions are appealable.	18.4 (2)	**Jurisdiction of the appeal tribunal** **18.4(2)** Without restricting the generality of subsection (1), the exclusive jurisdiction includes the power to determine, on an appeal pursuant to subsection 7(2) or 18(1) **(a)** whether a worker's disability was work-related, **(b)** the duration and degree of a disability, **(c)** the weekly loss of earnings of a worker resulting from a work-related disability, **(d)** the average weekly earnings of a worker, **(e)** whether a person is a member of the family of a worker, **(f)** whether a person is a dependant, **(g)** whether a person is a worker, and to deem a person to be a worker, and **(h)** whether a worker or a dependant is entitled to compensation.
21	**Application to Supreme Court** Issues include: • Parties able to initiate an application to Supreme Court.	18.5 (1)	**Application to Supreme Court** **18.5(1)** Either the appeal tribunal or the board may apply to the Supreme Court for a determination of whether a policy established by the board is consistent with this Act. **Access to claim file** **19.(1)** A worker, or the dependant of a deceased worker, may, at the offices of the board, examine and copy all information in the possession of the board in respect of their claim but shall not use the information otherwise than for the purpose of procedures before the board or the appeal tribunal unless permitted by the board. **Interest** **19.4** Where compensation is payable, the adjudicator, hearing officer or appeal tribunal shall order that interest be paid on such compensation in accordance with board policy and the board shall pay such interest. **Decisions based on merit** **19.5** Subject to paragraph 18.2(b), the decisions, orders and rulings of an adjudicator, hearing officer or the appeal tribunal shall always be based on the merits and justice of the case and in accordance with the Act, the regulations and the policies of the board. **Written reasons** **98.(1)** An adjudicator, a hearing officer, an appeal panel or the appeal tribunal shall provide written reasons for any order, ruling or decision that it has made, with the exception of those orders, rulings or decisions related to procedural matters. **(2)** The written reasons under subsection (1) shall be written in plain language, to the fullest extent possible.

PART 3: COMPENSATION FOR WORKERS

Issue No.	Issue Raised	Act References	Act Quotes
	Chronic pain See definition of disability, Part 12		**Application for compensation** **11.** A claim for compensation shall be dealt with and determined in the first instance on behalf of the board by an adjudicator employed by the board. **Compensation for permanent impairment** **20.(1)** The compensation payable under this section is in addition to other compensation under this Act. **(2)** Subject to subsection (3), a worker who suffers a work-related permanent impairment is entitled, for the year that the permanent impairment arose, to a payment, equal to the product of the percentage of the worker's permanent impairment, as determined by the board, that is work-related, and **(a)** $80,000 for 1993, or **(b)** for each year after 1993, an amount equal to the product of **(i)** $80,000, and **(ii)** the quotient obtained when the average wage for the year is divided by the average wage for 1993. **(3)** The amount determined under subsection (2) shall be **(a)** increased by two percent for each year of age of the worker under 45 years at the time the permanent impairment arose, to a maximum increase of 40 percent, or **(b)** decreased by two percent for each year of age of the worker over 45 years at the time the permanent impairment arose, to a maximum decrease of 40 percent. **(4)** The compensation payable under this section shall be paid, on the election of the worker, as **(a)** a single lump sum, or **(b)** an annuity offered by the board. **(5)** This section shall not apply to a worker who dies as a result of a work-related disability before a determination has been made by the board of the worker's permanent impairment. **Compensation for loss of personal property** **21.** If a worker has suffered a work-related disability and is entitled to compensation under section 22 and has also suffered a loss of or damage to personal property in the accident that caused the disability, the board may pay to the worker, compensation for that loss or damage up to a maximum fixed by order of the board.
	Chronic stress See definition of disability, Part 12		
22	**Return to work and obligation to re-employ** The Act is currently silent on this issue.	New	
23	**Commuting of benefit payments** The current Act does not allow commuting of benefits. Currently there are instances where injured workers are requesting that their loss of earnings, benefits, annuities and pensions be commuted to a lump sum payment, in lieu of receiving monthly payments.	New	
24	**Award for pain and suffering** Currently the Act does not provide for payment for pain and suffering.	New	
25	**Maximum non economic – loss award** Currently 100 per cent of non economic loss is $80,000 in 1992 plus formula in 20.2 (b). (On June 19, 2003 the amount was $86,285.84)	20	

26	**Compensation for personal property loss (amount)** If a person suffers an accident that results in a workplace disability and sustains a loss or destruction of personal property the board may replace the lost or damaged goods up to a maximum amount of $200. The amount is fixed by board policy.	21	**Compensation for loss of earnings** **22.(1)** Where a worker is entitled to compensation, the board shall pay compensation to the worker in an amount equal to 75 percent of the worker's weekly loss of earnings from all employment. **(2)** The method and manner of making a payment under subsection (1) will be determined by the board. **Worker's weekly loss of earnings** **23.** A worker's weekly loss of earnings is equal to the difference, if any, between the **(a)** worker's average weekly earnings, up to the maximum wage rate for a week, immediately before the work-related disability arose, and **(b)** estimated average weekly earnings that the worker could, in the board's opinion, earn from time to time, in a suitable occupation after the disability arose. **Payment to employer** **25.** If a worker receives earnings in respect of a period of disability, the board may pay to the worker's employer an amount equal to the compensation to which the worker would have otherwise have been entitled. **Minimum compensation for total disability** **26.** The board may prescribe, by order, a minimum amount of compensation, based on full-time employment, to be payable to a worker who suffers a total disability. **Annuity at age 65** **27.(1)** If a worker has received compensation in respect of the same disability for at least 24 months, an amount equal to 10 percent of the total compensation for loss of earnings paid during the period of disability, together with accrued interest, shall be used by the board to provide an annuity for the worker payable at the later of age 65 and the date that compensation ceases to be payable to the worker. **(2)** The amount under subsection (1) shall be set aside in the reserves of the board at the time the worker becomes entitled to the amount. **(3)** If the amount under subsection (1) is less than a minimum amount fixed by order of the board, the board may pay the worker the accumulated capital and interest rather than an annuity. **(4)** If, as a result of any work-related disability, a worker's retirement income, including the annuity payments under subsection (1) is less than the amount prescribed under section 26 the board may increase the annuity payments so that the worker's retirement income, including the annuity payments, will equal the amount prescribed under section 26 **Rehabilitation assistance** **30.** If a worker, as a result of a work-related disability, requires assistance to reduce or remove the effect of a handicap, or experiences a long term disability or requires assistance in the activities of daily living, the board shall pay the cost of rehabilitation assistance, including vocational or academic training, deemed appropriate by the board in consultation with the worker.
27	**Compensation for loss of personal property (triggers)** The current trigger for compensation for loss of personal property is "disability".	21	
28	**Pay on day of injury** The Act is silent on this issue.	22 23	
29	**Calculation of wage loss benefits** By policy the board calculates pre-accident earnings through two methods. For the first 180 days workers receive 75 per cent of what the worker was making based on hourly, weekly or monthly rate of pay. After 180 days the board recalculates the pre-accident earnings to be based on 75 per cent of the best 12 consecutive months out of the past 24 months.	22 23	
30	**Vocational rehabilitation benefits are established and provided based on calculation of wage loss benefits** There are two methods of calculating rate of compensation s. 22 and 23 (see Issue 29). Questions have been raised about which rate should be used when workers are re-training after a workplace disability.	22 23 30	
31	**The use of deeming** The standard used by the board to determine estimation of earning capacity.	22 23 30	

32	**Reimbursement of compensation payments to the employer and other insurers** This issue includes: • Criteria for when section is used (may vs. shall); • Act limits payments to employers only; • Relationship between compensation payment to the employer and compensation payment to the worker.	25	**Emergency transportation** **31.(1)** Where a worker suffers a work-related disability, the worker's employer shall immediately provide and pay for emergency transportation for the worker to a hospital, medical practitioner, home, or other place that may be required by the worker's condition. **(2)** Where an employer fails to provide emergency transportation in accordance with subsection (1), and another person or the board incurs expense in doing so, the board shall re-imburse the person and shall recover the amount from the employer as a debt due from the employer, the enforcement of which shall be done in the same manner as the enforcement of the payment of an assessment. **Indexing of benefits** **34.(1)** On the anniversary of the date that a worker's loss of earnings began, the average weekly earnings of a worker, for the purposes of paragraph 23(a), shall be increased on the first day of the month immediately following by the sum, if any, of **(a)** 2.0 percent, to allow for any increases due to promotion and advancement which the worker might reasonably be expected to have received but for the work-related disability, and **(b)** the percentage change between the average wage for the year and for the immediately preceding year. **(2)** Despite subsection (1), a worker's average weekly earnings shall never exceed the maximum wage rate for the year of review.
33	**Different minimum compensation levels** Currently there are different minimum levels of compensation – the volunteers are spelled out in legislation; regular workers are spelled out by Board order; and minimum level optional coverage is set by policy.	26	
34	**Minimum compensation** Currently, if a worker earns less than $16,000 he/she receives 100 per cent of his/her pre-accident earnings.	26	
35	**Annuity** Currently entitlement to annuity ends with the non-work related death of the worker with no payment to the estate. Currently there is no ability to withdraw an annuity prior to death. (See Issue 23)	27	
36	**Claims management** The Act does not give direction on the claims management process, it is currently regulated in practice and policy.	30 11	
37	**Rehabilitation assistance for incidental costs** The Act is not specific in how this is addressed. It is currently addressed in policy.	30	

38	**Definition of "initial treatment site"** Emergency transportation Where a worker suffers a work-related disability, the worker's employer shall immediately provide and pay for emergency transportation for the worker to a hospital, medical practitioner, home, or other place that may be required by the worker's condition.	31.1	
39	**The role and use of indexing of benefits** This was identified as an issue to be reviewed in this Act.	34 (1)	

PART 4: COMPENSATION FOR DEPENDANTS			
Issue No.	**Issue Raised**	**Act References**	**Act Quotes**
40	**The adequacy of the system for spouses** This issue includes the level of monetary remuneration and other assistance to the spouse of seriously injured worker.	36	**Compensation for spouse** **36.**(1) If a worker dies as a result of a work-related disability, the board shall pay to the worker's spouse a monthly payment for life equal to 3.125 percent of the maximum wage rate for the year of payment. **(2)** The board may pay the worker's spouse an amount in addition to that provided under subsection (1) where, in the board's opinion, the spouse is in need, but in no case may a spouse receive an amount under this section that is greater than the amount that the deceased worker would have received in respect of the loss of earnings had the worker survived and been totally disabled.

PART 5: RIGHT OF ACTION AND ASSIGNMENT

Issue No.	Issue Raised	Act References	Act Quotes
41	**Limitation on legal rights as it relates to vehicles** A worker cannot bring action against another employer or workers of that other employer covered under the Act unless the disability was caused or contributed to by the use of a vehicle.	41 (4)	**Limitation on legal rights** **41.(1)** No action lies for the recovery of compensation and all claims for compensation shall be determined pursuant to this Act. **(2)** This Act is in lieu of all rights and causes of action, statutory or otherwise, to which a worker, a worker's legal personal representative or a dependant of the worker is or might become entitled to against the employer of that worker or against another worker of that employer by reason of a work-related disability arising out of the employment with that employer. **(3)** Where a worker suffers a work-related disability and the conduct of an employer who is not the worker's employer, or of a worker of an employer who is not the worker's employer, causes or contributes to the disability, neither the worker who suffers the disability, nor their personal representative, dependant, or employer, has any cause of action against that other worker or other employer. **(4)** Subsection (3) does not apply where the disability arose from the use or operation of a vehicle. **(5)** Any party to an action may, upon notice to all other parties to the action, apply to the board for a determination of whether the right of action is removed by this Act.

42	**Division / control of subrogated claims** Section 42.(2)(c) states that no payment or settlement may be made in respect of the cause of action without the prior approval of the board.	42	**Assignment of a worker's cause of action** **42.(1)** Where a worker suffers a work-related disability and the worker, the worker's legal personal representative or the dependants of a deceased worker have a cause of action in respect of the disability, the board is deemed to be an assignee of the cause of action and the board is vested with all the rights to any cause of action arising out of the work-related disability. **(2)** Where the board becomes an assignee of a cause of action pursuant to subsection (1) **(a)** an action may be taken against any person by the **(i)** worker or the worker's legal personal representative or dependants, with the consent of the board, or **(ii)** board in the name of the worker, the worker's legal personal representative or dependants without the consent of the person in whose name the action is taken, **(b)** the persons named in subparagraph (a)(i) may be indemnified by the board for such costs approved by the board related to the action, **(c)** no payment or settlement may be made in respect of the cause of action without the prior approval of the board, and any settlement agreed to without the prior approval of the board is void, **(d)** the board may, at any time, agree to a settlement with any party regarding the cause of action of a worker or a worker's dependants for any amount or subject to any conditions the board deems appropriate. **(3)** Money recovered in an action or settlement of an action pursuant to this section shall be paid to the board, and **(a)** if the money is accepted in full settlement of the cause of action, the board shall release the person paying the money or on whose behalf the money is paid from all liability in the cause of action, **(b)** if the judgment of the court under which the money is received clearly indicates that a portion of the award is for pain and suffering of the worker resulting from the cause of action, the board may pay to the worker after payment of all costs of the action, an amount that bears the same proportion to the money remaining in its hands as the portion of the award that is attributable to pain and suffering bears to the total award, **(c)** any money received as a result of action taken or negotiations carried on by the board, the worker, the workers' legal personal representative or dependants, the board shall pay to that person, after deducting all costs of the action, an amount equal to **(i)** 25 percent of the gross amount received by the board, or **(ii)** where a payment has been made to the worker pursuant to paragraph (b), 25 percent of the money remaining after payment has been made under paragraph (b), and **(d)** if any money remains after making the payments pursuant to paragraphs (b) and (c), and the remainder is in excess of the cost, as determined by the board, to the board of the worker's disability, the excess shall be paid to the worker, the worker's legal personal representative or dependants, as the case may be. **(4)** In an action taken under subsection (2), a defendant may not bring third party or other proceedings against any employer or worker against whom the plaintiff may not bring an action because of this Act, but if the court is of the opinion that that employer or worker contributed to the damage or loss of the plaintiff, it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

PART 6: COMPENSATION FUND

Issue No.	Issue Raised	Act References	Act Quotes
43	**Compensation Fund within the Yukon Consolidated Revenue Fund** The Act states an account called the compensation fund shall be established within the Yukon Consolidated Revenue Fund into which all monies received by the board shall be deposited.	43 (1)	**Formation of the compensation fund** **43.(1)** An account called the compensation fund shall be established within the Yukon Consolidated Revenue Fund into which all monies received by the board shall be deposited. **(2)** The compensation fund is a trust fund within the meaning of the *Financial Administration Act* and all amounts received by the board under this Act and income of the fund is trust money within the meaning of the *Financial Administration Act*. **Financial Administration Act** **46.**(1) The receipt and payment of money by the board is subject to the *Financial Administration Act*. **(2)** All money received or spent by the board shall be deemed to be received or spent by it on behalf of the Government of the Yukon. **(3)** All money owing to the board shall be deemed to be owed to it in its capacity as a representative of the Government of the Yukon. **(4)** All proceedings taken by the board for the collection of any money due to the board under this Act shall be deemed to be taken by the board for and on behalf of the Government of the Yukon. **(5)** Despite the *Financial Administration Act* **(a)** the investment of money by the board is subject to the *Financial Administration Act*, except section 39 of that Act, **(b)** Part VI of the *Financial Administration Act* shall not apply to the collection of any money due to the board under the Act, and **(c)** a Management Board Directive shall not apply to the board unless the Commissioner in Executive Council prescribes that it shall apply. **(6)** Before the Commissioner in Executive Council makes a regulation under paragraph 5(b), the Minister shall consult with representatives of employers and workers and the board concerning whether a Management Board Directive should be made applicable to the board. **Investments** **47.(1)** Subject to section 46, the board may invest the compensation fund in any investment permitted by the *Trustee Act*. **(2)** The compensation fund shall be invested pursuant to an investment policy approved by the members of the board. **(3)** Investments acquired pursuant to the investment policy shall not create a high risk portfolio. **(4)** Amendments to the compensation fund investment policy may only be made on the recommendation of the members of the board and with the approval of the Commissioner in Executive Council. **(5)** Any amendments to the compensation fund investment policy shall be transmitted to all members of the Yukon Legislative Assembly within ten (10) days of approval.
44	**Financial Administration Act (FAA) and independence of the board** A number of parts of the FAA apply to the WCH&SB, including parts that address: Management Board and its role, public accounts, revenues, expenditures, statutory authority, payments, assets and investments, liabilities, enforcement and miscellaneous (including appropriations).	46	
45	**Authority over Fund** Currently there is a requirement within the Act that prior to any changes to the investment strategy of the fund; the Commissioner in Executive Council needs to approve these amendments. The board is restricted to administer the fund under the requirements of the *Trustee Act* and it is the fiduciary responsibilities of the board of directors to ensure that the fund is managed as effectively as possible based on the current market conditions and opportunities. .	47 (4)	

PART 7: ASSESSMENTS

Issue No.	Issue Raised	Act References	Act Quotes
46	**Access to information on which individual assessment rate is based and calculated and rationale for any change to assessment rate** Currently the Act does not require the board to provide this information.	53 54 55	**Assessment rates** **53.(1)** The board may provide for different assessment rates applicable to each class and sub-class of industry created under section 54. **(2)** Publication in the Yukon Gazette of a statement of percentages and rates fixed by the board applicable to specific industries constitutes an assessment upon, and notice to, each employer in those industries for the period named in the Yukon Gazette. **Employer classification** **54.(1)** For the purpose of section 50, the board may establish classes and sub-classes of industries as it deems appropriate. **(2)** The board shall assign every employer to an appropriate class or sub-class based upon the industry in which the employer operates. **Employer's experience accounts** **55.(1)** The board shall maintain experience accounts for each employer, indicating the assessments levied and the cost of all claims chargeable in respect of the employer. **(2)** Where, in the opinion of the board, a worker's disability results, in whole or in part, from the negligence of an employer who is not the employer of the disabled worker, or a worker of that employer, **(a)** the cost of any claim, as determined by the board, may be charged to the experience account of that employer, and **(b)** where the employer is in a separate class or sub-class from the disabled worker's employer, the board may charge the cost of the claim, as determined by the board, to the class or sub-class in which that employer is included in proportion to the degree of negligence the board attributes to that employer or that employer's worker. **(3)** Where a worker suffers a work-related disability, the disabled worker's employer may, within 24 months of the disability arising, request that subsection (2) be applied by the board. **Merit rating** **57.** The board may, by order, adopt a system of merit rating for employers.
47	**The distribution of administration costs to industry classifications** The Act does not provide direction on this.	53 91	
48	**Access to employer's safety and claims' cost information** Currently this information is confidential between the board and the individual employer.	55	
49	**Incentive programs** The board may adopt incentive programs to reward employers for safe worksites.	55.(1) 57	
50	**Standing at assessment hearings** Currently the individual employer and the board have standing at an assessment hearing.	68	

51	**Employers' appeal process** Currently the process is left to policy and the board determines how the appeal is disposed of.	68 (3)	**Employer's right of appeal** **68.(1)** Employers may appeal to the board any decision made by the board relating to assessments made by the board. **(2)** An appeal under subsection (1) shall be made in writing to the board within 180 days of the date of the decision otherwise the employer shall lose their right to appeal the decision. **(3)** The appeal shall be disposed of in the manner determined by the board. **Government of the Yukon** **91.(1)** The Government of the Yukon shall pay to the Board **(a)** the cost of compensation for all work-related disabilities of its workers that were caused prior to 1993, **(b)** annual assessments after 1992 for all workers designated as workers under subsection 4.1(1) or 4.1(2) of this Act; **(c)** the cost of compensation for all work-related disabilities of those persons designated as workers under subsection 4.1(1) or 4.1(2) of this Act, together with an administration fee of 15%. **(2)** Annual assessments payable by the government of the Yukon shall be a charge on the Yukon Consolidated Revenue Fund. **(3)** Section 67 and all of Part 8 of this Act shall not apply to the Government of the Yukon

PART 8: ENFORCEMENT AND PRIORITIES

Issue No.	Issue Raised	Act References	Act Quotes
52	**Process for collection of assessment and penalties for late or non-reporting** The Act does not address situations that may arise under the conversion to "Actual Reporting of Assessable Payroll" system.	72 73	**Enforcement of assessments** **72.(1)** The board may issue a certificate stating what monies are owed to it pursuant to this Act and direct the payment of the amount by the employer, body or person that owes such monies under this Act. **(2)** Such certificate or a copy of it certified by the designated signing officer of the board to be a true copy may be filed with the Clerk of the Supreme Court and when so filed it becomes an order of the Supreme Court and may be enforced as a judgment of the Court. **(3)** The board shall send a copy of the certificate, immediately after it has been filed with the Court, by registered mail to the last address provided to the board by the employer, body or person. **(4)** Such certificate or a copy of it certified by the designated signing officer to be a true copy may be filed in the Land Titles Office for the Yukon Land Registration District and any real property of the person, body or employer owing monies to the board is bound to the same extent by the registration of the certificate as a registered encumbrance from the date of filing of such certificate in the Land Titles Office and the person, body or employer affected by such certificate is deemed to have executed the encumbrance. **(5)** Such certificate or a copy of it certified by the designated signing officer to be a true copy may be filed in the Mining Recorders Office established under the *Yukon Placer Mining Act* or the *Yukon Quartz Mining Act* against any mine or mining claim as defined by the *Miners Lien Act* and any mine or mining claim of the person, body or employer owing monies to the board are bound as of the date of the registration of the certificate in the Mining Recorders Office. **(6)** The certificate shall set out the address for service to the board, the full name of the person, body or employer owing monies to the board, a legal description of the specific land, or mine or mining claim to be charged and a statement setting out the amount owed to the board with interest, if any, to be charged. **Additional penalty for defaults by employer** **73.** If an employer **(a)** refuses or neglects to provide a payroll return or other statement required under the Act, or **(b)** refuses or neglects to pay any assessment, or the provisional amount of any assessment or any instalment or part thereof, in addition to any penalty or other liability to which the employer may be subject as a result of their refusal, the board may, in respect of each disability incurred by a worker in their employ that occurs during the period of default, require the employer to pay to the board an additional assessment of up to one-half of the cost, as determined by the board, of the compensation payable in respect of each claim to a maximum of $10,000.

PART 9: OFFENCES AND PENALTIES

Issue No.	Issue Raised	Act References	Act Quotes
53	**A process for dealing with fraud** The Act states that a person who knowingly provides any false or misleading information to the board is guilty of an offence and is liable for fines and or imprisonment. By order of the board, the president shall conduct an investigation into any matter in connection with the administration of the Act. The Act does not address reporting of fraud, investigation and process for prosecution including recoveries.	77 100.(2)	**Providing false information** **77.(1)** A person required under the Act to provide information to the board who knowingly provides the board with any false or misleading information is guilty of an offence and is liable **(a)** on the first conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding six months or both, or **(b)** on each subsequent conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding one year or both. **The president and staff** **100.(2)** By order of the board, the president shall conduct an investigation into any matter in connection with the administration of the Act and shall have in connection with the investigation the same powers as the Supreme Court of the Yukon Territory for compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents and objects relevant to the investigation, and causing depositions to be taken.

PART 10: MISCELLANEOUS

Issue No.	Issue Raised	Act References	Act Quotes
54	**ATIPP (Access To Information and Privacy Protection)** ATIPP no longer applies to the Workers' Compensation Health and Safety Board.	New	**Workers' advocate** **11.1(1)** The Minister of Justice shall appoint a workers' advocate who, from the date of appointment, shall be a person appointed to a position in the public service. **(2)** The workers' advocate shall **(a)** advise workers and the dependants of deceased workers on the intent, process and procedures of the compensation system, including the administration of the Act, the regulations and the policies of the board, **(b)** advise workers and the dependants of deceased workers on the effect and meaning of decisions made under the Act with respect to their claims for compensation, and **(c)** assist, or at their request, represent a worker or a dependant of a deceased worker in respect of any claim for compensation, including communicating with or appearing before an adjudicator, hearing officer or appeal committee. **(3)** The workers' advocate may refuse to perform any or all of the duties under subsection (2) where, in the opinion of the workers' advocate **(a)** no legitimate claim for compensation can be advanced by or on behalf of the worker or the dependants of a deceased worker, or **(b)** the expectations of the worker or the dependants of a deceased worker are unreasonable in the circumstances of the claim. **(4)** The workers' advocate shall provide written reasons for any refusal under subsection (3) to the worker or the dependants of a deceased worker. **(5)** The Minister of Justice shall prepare an annual budget for the workers' advocate and, following consultation with the board, approve the budget, which shall be paid out of the compensation fund. **(6)** Within 90 days after the end of each calendar year, the workers' advocate shall submit a report summarizing his or her activities in the preceding year and accounting for expenditures in that year to the Minister of Justice who shall make the report available to the board, organizations representing employers and workers and the public. **(7)** Subject to the budget approved under subsection (5), and the *Public Service Act*, the workers' advocate may employ such employees or contract for the provision of such services as the workers' advocate considers necessary for the efficient operation of his or her office. **Powers of the members of the board** **93**. The members of the board shall **(i)** promote awareness of the basic rights and obligations of workers and employers under this Act.
55	**Employer education and representation / Employer Consultant** The Act states that the members of the board shall promote awareness of the basic rights and obligations of workers under this Act 93.(i) Issues include: • The Act is silent on representation; • This position has been contracted out for a two-year period; and • This deals with the role, effectiveness, reporting and balance of the Employer Consultant.	New	
56	**Worker education and representation / Workers' Advocate** The Act calls for the Minister to consider the role and effectiveness of the Workers' Advocate. Issues include: • the role; • effectiveness; • reporting; and • balance.	11.1	

PART 11: WORKERS' COMPENSATION HEALTH & SAFETY BOARD

Issue No.	Issue Raised	Act References	Act Quotes
57	**Entire Governance Structure** Part 11 "Workers Compensation Health and Safety Board" of the Act addresses Governance. Issues include: • Effectiveness and efficiency; • Roles and responsibilities; • Representation and accountability (The Auditor General has suggested that the presence of public interest representatives on the Board could help ensure that members put the interests of the system ahead of specific individual or group interests); and • Relationship between the Minister/ Executive Council and the board.	92 93 96 100	**Appeal tribunal** **18.1(4)** The chair of the appeal tribunal shall sit as a non-voting member of the board. **Powers of the members of the appeal tribunal** **18.2(c)** report to the Minister, no later than 90 days after the end of each calendar year, with respect to **(i)** the number of appeals heard, resolved and pending before the appeal tribunal, **(ii)** the activities of the appeal tribunal generally, and **(iii)** such other matters as the Minister requests. **Examination** **67.(1)** Any person authorized by the board may examine the books and accounts of any employer and make such other inquiry as the board deems necessary for administering this Act. **(2)** For any purpose related to the administration of this Act, any person authorized by the board may, at all reasonable hours, enter any part of the establishment of any employer or person who may be an employer. **(3)** An employer shall produce, within 10 days of receiving notice from the board, and in the manner set out in the notice, all documents, deeds, papers and computer records which are in the possession, custody or power of the employer that may, in any way, relate to the subject-matter of an examination or inquiry under this section. **(4)** For the purpose of an examination or inquiry under this section, the board or any person authorized by it, have all the powers of a board of inquiry appointed under the *Public Inquiries Act*. **(5)** Every person authorized by the board to make an examination or inquiry under this section may require and take oaths, affidavits, affirmations, or declarations respecting the subject matter of an examination or inquiry under this section. **(6)** Any employer or other person who obstructs or hinders the making of an examination or inquiry under this section or who refuses to permit it to be made or who neglects or refuses to produce such documents, writings, books, deeds and papers required in the notice under this section commits an offence. **(7)** In this section, an employer includes a person who the board considers to be an employer or a principal.
58	**Voting role of the Chair** Currently the board consists of voting and non-voting members. The Act is not clear on the chair voting.	92	
59	**Equal treatment of all employers** Currently section 91 (3) states that section 67 and all of Part 8 of this Act shall not apply to the Government of the Yukon.	67 91.(3)	
60	**The link between powers of the board and the objects of the Act** Currently the board of directors is not explicitly linked to the Objects (s.1) of the Act.	92.1 93	

61	**Reporting structure of President** The president can only be hired and dismissed on recommendation of the board of directors and has the status and responsibilities of a deputy head under the *Public Service Act*.	92.1 (d) 100 (1) 100 (5) 100 (6)	**Government of the Yukon** **91.**(3) Section 67 and all of Part 8 of this Act shall not apply to the Government of the Yukon. **The board** **92.(1)** The corporation previously established as the Workers' Compensation Board is hereby continued as the Workers' Compensation, Health and Safety Board and has all the powers of a natural person. **(2)** The board shall be composed of **(a)** the chair, as appointed under subsection (3), **(b)** no fewer than four and no more than six voting members appointed by the Commissioner in Executive Council consisting of an equal number of members representative of employers and workers, **(c)** the chair of the appeal tribunal, as appointed under subsection 18.1(2), and **(d)** the president. **(3)** The Commissioner in Executive Council shall appoint a chair and an alternate member to the board to act as chair during the absence of the chair. **(4)** The president of the board shall sit as a non-voting member of the board. **(5)** For the purpose of making appointments under subsection (2), the Minister shall consult with **(a)** employers and employer organizations, about the appointment of members to represent employers, **(b)** workers and organized labour, about the appointment of members to represent workers, and **(c)** employers and workers about the appointment of the chair and the alternate chair. **(6)** At no time may a person who is a voting member of the board and appointed under subsection 92(2) to be representative of employers, be at the same time an employee of the Government of the Yukon. **(7)** Members of the board will be appointed for a term not exceeding three years and are eligible for re-appointment. **(8)** Members of the board, other than the president, may be removed by the Commissioner in Executive Council only for cause. **(9)** The terms and conditions of appointment to the board shall be as established by the Commissioner in Executive Council and shall include the requirement that members be familiar with the purposes and objectives of the compensation system under the Act. **(10)** Vacancy on the board does not impair the power of the remaining members to act. **(11)** The Minister may, to fill a vacancy on the board, appoint a person to the board for a single term of up to 60 days. **(12)** The members of the board shall meet at least once a month and may conduct its proceedings in such manner as it considers appropriate.
62	**Relationship between the Appeals Tribunal and the board** The Chair of the Appeal Tribunal is a non-voting member of the board of directors.	18.1 (4) 92 .1 (c)	
63	**Annual Reporting of the Appeals Tribunal** The Auditor General identified the annual reporting of the Appeals Tribunal as an issue.	18.2(c)	
64	**Process for appointment(s) to the Board and Appeal Tribunal** The Act calls for the Minister to consult prior to appointments.	18.1 (5) 92 (5)	
65	**Board policy development (emerging issues, are policies current)** There is no process in the Act as to how and how quickly the board will develop, review or implement policies.	93 (a) 100	
66	**Consultation process on Policy Development** The current consultation process for policy development is outlined in s. 93 (h.1).	93 (h .1)	

67	**Annual reporting of board & president to the Legislative Assembly** Currently there is a requirement that the chair of the board of directors and the president appear annually.	93.1	**Duties of the board** **92.1** The duties of the board are to **(a)** ensure that workers, dependants of deceased workers and employers are treated with compassion, respect and fairness, **(b)** act in good faith when conducting the business of the board and in administering the compensation system under the Act, and **(c)** subject to subsection 79(1), maintain confidentiality in matters respecting claims for compensation when discussing or conducting the affairs of the compensation system. **Powers of the members of the board** **93**. The members of the board shall **(a)** establish the policies of the board, **(b)** create rules to (i) define circumstances that will constitute conflict of interest for its members, (ii) govern disclosure of conflicts of interest, and (iii) provide guidelines regarding participation and voting at meetings of the board by a member who has a conflict of interest. **(c)** provide to the Minister an audited financial statement in accordance with subsection 49(6) no later than June 30th of each year, including reports on **(i)** the assets of the compensation fund, **(ii)** actuarial reviews of assessment rates, **(iii)** actuarial reviews of the liabilities of the compensation fund, and **(iv)** financial and management practices, plans and policies; **(c.1)** report to the Minister within 90 days after the end of each calendar year on all matters regarding the activities of the board; **(d)** report in a timely manner on such matters as the Minister may request, **(e)** consider and approve operating and capital budgets of the board, **(f)** plan for the future of the board, **(g)** examine, inquire into, hear and determine assessment matters, determinations under subsection 41(5) and appeals under the *Occupational Health and Safety Act,* **(h)** make publicly available all policies of the board relating to claims for compensation, assessment procedures and occupational health and safety, **(h.1)** prior to the adoption of any draft policy affecting claims for compensation, cause notice of the draft policy to be published at least once a week for two consecutive weeks, in a newspaper circulated in the Yukon Territory, and the notice shall state **[i)]** the purpose of the draft policy and a general description of its effect on claims for compensation **[ii]** that a copy of the draft policy is on file in the public register and may be inspected by members of the public during business hours, **[iii]** the time during which the members of the board will accept submissions on the draft policy, which shall not be less than 30 days after the last publication of the notice, and **[iv]** the procedure to be followed by members of the public who wish to submit representations concerning the draft policy, and **(i)** promote awareness of the basic rights and obligations of workers and employers under this Act.
68	**The release of the Annual Report and the Financial Statements** Currently the financial statements must be into the Minister by June 30 of each year and the annual report must be to the Minister within 90 days after the end of each calendar year.	93 (c) 93 (c.1)	
69	**Consistency of scheduling of Annual Information Meeting** The Act states that the board shall hold an annual meeting within 90 days after the public release, under subsection 94(2), of the audited financial statement.	95.1	
70	**Disclosure of financial/management information** The act identifies the information that the board must present. The Auditor General has requested that there be more meaningful reporting to stakeholders in the annual report.	93 (c) 93 (c.1)	
71	**Promotion of WCB and OH&S programs and accident prevention activities** The Act states the members of the board shall make publicly available all policies of the board relating to claims for compensation, assessment procedures and occupational health and safety.	93 (h)	
72	**Limitation periods** There is no time limitation on when an issue can be brought before or dealt with by the board or appeal panel.	96 (5) 97 (6)	

73	**The effectiveness and appropriateness of the Board administering both the *Workers' Compensation Act* and the *Occupational Health and Safety Act*** The Act states that the issue of the effectiveness and appropriateness for the Board to administer both The *Workers' Compensation Act* and the *Occupational Health and Safety Act* must be reviewed.	105 (b)	**Appearance** **93.1** The chair of the board and the president shall appear annually before the Legislative Assembly. **Annual meeting** **95.(1)** The members of the board shall hold an annual meeting within 90 days after the public release, under subsection 94(2), of the audited financial statement for the purpose of reporting to workers and employers on the administration of the compensation system and board policies related thereto. **(2)** The board shall produce a summary report on each meeting held under subsection (1) and make the report publicly available within 30 days after the meeting date. **Jurisdiction of the board** **96.(1)** Subject to subsection 18.4(1), the board has the exclusive jurisdiction to examine, inquire into, hear, determine, and interpret all matters and questions under this Act. **(2)** Without restricting the generality of subsection (1), the exclusive jurisdiction includes the power to determine **(a)** whether an industry is within the scope of this Act, **(b)** whether any person or entity is an employer, and to deem a person or entity to be an employer, and **(c)** employment safety. **(3)** The acts or decisions of the board on any matter within its exclusive jurisdiction are final and conclusive and not open to question or review in any court. **(4)** No proceedings by or before the board shall be restrained by injunction, declaration, prohibition, or other process or proceedings in any court or be removed by certiorari, judicial review, or otherwise into any court, in respect of any act or decision of the board within its jurisdiction nor shall any action be maintained or brought against the board, board members, employees or agents of the board in respect of any act or decision done or made in the honest belief that it was done within its jurisdiction. **(5)** The board has the authority to examine, inquire into and hear any matter that it has dealt with previously and has the power to rescind or vary any decision or order previously made by it. **(6)** The board is not bound by their previous rulings or decisions, and all rulings and decisions it makes shall be upon the merits and justice of the case before it. **(7)** The board has the same powers as the Supreme Court of the Yukon Territory for compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents and objects relevant to the hearing. **(8)** The board may cause depositions of witnesses residing within or outside of the Yukon to be taken before any person appointed by it in the same way as the Supreme Court of the Yukon Territory can in civil actions. **(9)** For the purposes of this Act, the board and each of its members has the protection, privileges and powers of a board appointed under the *Public Inquiries Act*.
74	**Claims costs** The Auditor General identified controlling increasing claims costs as an issue.		
75	**Administration costs** The Auditor General identified controlling increasing administration costs as an issue. The board of directors approves the administration budget.	93 (e)	
76	**Attraction and retention of key personnel** Currently employees of Yukon Workers' Compensation Health and Safety Board are governed under the Public Service Act. The board also has contracts of service with medical and legal practitioners.	100.4	
77	**Employee right to sue board for damages caused or exacerbated by the board's actions** The Act states that no proceedings by or for the board shall be restrained by injunction, declaration, prohibition, or other process or proceedings in any court or be removed by certiorari, judicial review, or otherwise into any court, in respect of an act or decision of the board within its jurisdiction nor shall any action be maintained or brought against the board, board members, employees or agents of the board in respect of any act or decision done or made in the honest belief that it was done within its jurisdiction.	96.4	

78	**Administering prior years' legislation, policies or orders** Various pieces of legislation, policies and orders must be applied depending upon the date of disability.	96	**Appeal panel** **97.(6)** Where the members of the board consider that an appeal panel has not properly applied the Act or a policy of the board it may stay the decision and direct a new hearing before a new panel. **The president and staff** **100.(1)** On the recommendation of the members of the board and subject to certification by the Public Service Commission, the Commissioner in Executive Council shall appoint a president of the board who shall be responsible for **(a)** the administration of the board, **(b)** the development and implementation of board policies, **(c)** all functions related to personnel of the board, **(c.1)** the appointment of one or more hearing officers to review any decision made under section 11 concerning a claim for compensation, **(c.2)** the appointment of one or more medical consultants to provide assistance to the board, in accordance with section 14.1, **(d)** the preparation of capital and operating budgets of the board, **(e)** the authorization of expenditures in accordance with approved capital and operating budgets, and **(f)** any other functions and duties related to the administration of this Act assigned by the members of the board.
79	**Access to the Board's independent legal opinions** The act is silent on this issue.		**(2)** By order of the board, the president shall conduct an investigation into any matter in connection with the administration of the Act and shall have in connection with the investigation the same powers as the Supreme Court of the Yukon Territory for compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents and objects relevant to the investigation, and causing depositions to be taken. **(3)** The president may delegate any powers and duties to an employee of the board. **(4)** The president and the staff are members of the public service of the Yukon. **(5)** The position of president has the status and responsibilities of a deputy head under the *Public Service Act*. **(6)** Despite any other Act, the president may only be dismissed by the Commissioner in Executive Council on recommendation of the members of the board. The Commissioner in Executive Council shall dismiss the president if the members of the board have made a recommendation for dismissal. **Review** **105.(1)** No later than January 1, 2003, the Minister shall initiate a review of the Act, which shall consider **(b)** the effectiveness and appropriateness of the board administering both the *Workers' Compensation Act* and the *Occupational Health and Safety Act*,

PART 12: DEFINITIONS

Issue No.	Issue Raised	Act References	Act Quotes
80	**Definition of Disability** Issues include: • Chronic Stress • Chronic Pain		**101**.(1) In this Act, "**disability**" in respect of a worker means a work-related incapacity, as determined by the board, including post-traumatic stress, a permanent impairment, or a worker's death; "**maximum assessable earnings**" means, **(a)** for 1993, $43,000, and **(b)** for the years 1994 to 1997 inclusively, an amount equal to the aggregate of **(i)** the product of **(A)** $43,000 times **(B)** the quotient obtained when the average wage for the year is divided by the average wage for 1993, and **(ii)** $3,000 for each year after 1993, rounded to the nearest multiple of one hundred dollars, **(c)** for each year after 1997 it shall be equal to the maximum wage rate for the year but at no time may it exceed the maximum wage rate for the year. "**maximum wage rate**" for a year means **(a)** for 1993, $50,000, **(b)** for 1994 to 1997 inclusively, the product of **(i)** $50,000, and **(ii)** the quotient obtained when the average wage for the year is divided by the average wage for 1993, rounded to the nearest multiple of one hundred dollars, **(c)** for 1998 until 2003 inclusively, an amount determined by the board, such that the maximum wage rate will increase in equal amounts until 2003 at which time it will be equal to the yearly earnings of 90 percent of workers, and **(d)** for each year after 2003, an amount equal to the product of **(i)** the maximum wage rate for 2003, and **(ii)** the quotient obtained when the average wage for the year is divided by the average wage for 2003, rounded to the nearest multiple of one hundred dollars; "**maximum wage rate**" in relation to a week means the maximum wage rate for the year divided by 52;
81	**Disability vs. Impairment** Currently there is a lack of clarity around the use of the word disability and no definition for impairment.	101	
82	**Maximum Wage and Assessable Earnings Rates** Issues Include: • Method of calculating the maximum wage rate/ assessable earnings. • Basis of calculating the maximum wage rate/ assessable earnings. • Cap on maximum compensation and maximum assessment. • Currently, workers or Directors who have earnings from two or more sources must be assessed up to the max on each source on of earnings and can only collect benefits to the maximum wage rate or the optional coverage.	101	
83	**Definition of a vehicle** The current definition of a vehicle is any mode of transportation the operation of which is protected by liability insurance. This includes heavy machinery and airplanes.	101	
84	**Definition of compassion** There is no definition of "compassion".	101	

85	**Definition of wholistic approach to rehabilitation** There is no definition of "wholistic approach to rehabilitation."	101	"**vehicle**" means any mode of transportation the operation of which is protected by liability insurance; "**average weekly earnings**" shall be calculated based upon such sources of earnings over such period of time as the board considers fair and just; "**earnings**" includes salary, wages, commissions, tips, remuneration for overtime, piece work and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, credits, directors fees, indemnities and allowances paid to members of the Legislative Assembly, and any substitute for money but does not include any amount received for expenses incurred by the worker by reason of the worker's employment; **Special Examination** **104.(1)** Within 90 days after the coming into force of this section, the board shall submit to the Minister a plan for a special examination of the various elements of the compensation system under the Act, including the role of the board, the workers' advocate and the appeal tribunal in the system, to take place over the next ten years. **(2)** For the purpose of the special examination, the elements of the compensation system include (a) operations and administration, (b) resolving claims for compensation, and (c) assessments. **(3)** A special examination of the operations and administration of the board shall begin no later than six months after the coming into force of this section. **(4)** The Commissioner in Executive Council shall appoint one or more examiners to examine the compensation system in accordance with the plan set out in subsection (1) following consultation with the board. **(5)** For the purposes of the special examination, the examiner will have access to all records, documents, books, accounts, vouchers and other information in the possession of the board, the workers' advocate and the appeal tribunal that the examiner deems to be necessary to effectively and efficiently conduct the special examination. **(6)** The purpose of the special examination shall be to assess the efficiency, effectiveness and economy of the workers' compensation system. **(7)** The scope of the special examination shall be determined by the Minister in conjunction with the board, following consultation by the Minister with the appeal tribunal, the workers' advocate and representatives of organizations representing workers and employers. **(8)** The examiner shall call attention to all matters within the scope of the special examination that in the examiner's opinion should be brought to the attention of the board, the Minister and the Legislative Assembly. **(9)** The results of the special examination shall be reported to the board who shall immediately provide a copy of the report to the Minister, the appeal tribunal and the workers' advocate and make the report publicly available. **(10)** If the special examination is conducted by an examiner other than the Auditor General of Canada, the cost of the special examination shall be paid out of the compensation fund.
86	**Average weekly earnings** The Act states "average weekly earnings" shall be calculated based upon such sources of earnings over such period of time as the board considers fair and just.	101	
87	**Earnings** Issues include: • Inclusion of EI, CPP, WCB benefits, Social Assistance, non-monetary (e.g. dental plans) and non-employment related benefits (e.g. harvesting wild meat)	101	
88	**Special Examinations** The Auditor General completed this examination in September 2002	104	

Yukon Government

WORKER'S COMPENSATION ACT REVIEW SUBMISSION FORM

Please use the following form to provide your comments on any of the review topics identified earlier in this booklet. We appreciate you taking the time to help the review panel ensure *the Workers' Compensation Act* serves the needs of Yukoners to the greatest extent possible. We ask that you provide your contact information on this form so that we can keep you informed as this review proceeds.

Name _____

Address _____

Phone number _____

Email address _____

Would you like us to include you on our mailing list?

Please indicate preference: Canada Post _____ Email _____ Fax _____

We invite you to comment on any of the issues that have been identified for review. **Please reference the section of the Act to which your comments apply.*

If needed, please use back page of this paper or additional paper of your own to provide your comments.

Note: you are not limited to one submission. If you comment on some aspects of the Act, and later wish to comment on others, you are free to do so.

The deadline for submitting your comments is July 25, 2003.

You can submit your ideas the following ways:
Fax: (867) 393-6202
Email: wcbactreview@gov.yk.ca
Mailing address: WCB Act Review (WCARP), Box 2703, Whitehorse, Yukon Y1A 2C6

You can also submit ideas online by going to: http://www.wcbactreview.gov.yk.ca/

If you prefer to provide your comments orally:
Phone: (867) 667-8510 or toll free within the Yukon 1-800-661-0408 ext. 8510

Thank you for taking part in this review.

Appendix A.

Purpose of the Review

It's important that the Act be reviewed regularly to find out if there are areas of the legislation that need to be improved. The ultimate goal is to ensure that the *Workers Compensation Act* serves the needs of all Yukoners to the greatest extent possible.

The last time this Act was reviewed was in 1999, and it's a legislative requirement that another review take place now. The minister responsible for the Yukon Workers' Compensation Health & Safety Board, Peter Jenkins, initiated this review in December 2002, when he appointed a three-person panel. The panel is headed by MLA Patrick Rouble and includes Mike Travill and Ivan Dechkoff.

This panel's job is to examine issues mandated by the last review, those identified by the Auditor General and from Yukon stakeholders and other interested individuals and groups, and to provide the Yukon government with various options for amending the Act.

Patrick Rouble, Chair was first elected to the Yukon Legislative Assembly in the general election of November 4, 2002. Mr. Rouble has owned and operated two small businesses, taught business planning courses and has worked in the construction, mining and tourism industries. He is currently completing a Masters degree in Business Administration from Royal Roads University in Victoria.

Ivan Dechkoff has been involved in the Financial and Business sector for over 33 years and
most recently was the Community Manager for the CIBC in the Yukon and Northern British Columbia. In addition, for the past two and a half years, Mr. Dechkoff was a Director on the Board of the Workers' Compensation Health & Safety Board. He is well versed in the Legislative Act and the current WCB policies.

Mr. Dechkoff is currently the Employer Consultant for Workers' Compensation Health & Safety Matters and provides advice and counsels on such matters as safety, assessment and on the intent, process and procedures of the compensation system to employers of the Yukon.

Mike Travill has been the Workers' Advocate external to the Yukon Workers' Compensation Health and Safety Board since 1997. He was also 1st Vice-President of the Yukon Employees Union from 1999 to 2002.

Before coming to the Yukon, Mr. Travill was the Chair of the United Steelworkers' Health, Safety and Workers' Compensation Committee in Northern Alberta from 1982 to 1991. A significant work place injury led to a career change in 1990.

Mr. Travill takes a leave from his job as Workers' Advocate when he sits on this review panel.

Appendix B.

Terms of Reference

In the interests of maintaining an open, transparent and fair process during this review, we are including here the complete Terms of Reference for this project.

A panel consisting of the Chair Mr. Patrick Rouble and co-members Mr. Mike Travill and Mr. Ivan Dechkoff will lead this review. The panel will report directly to the Minister of Workers Compensation. The review will include three phases and the scope will address the areas mandated for review by the Act itself and those suggested by the Auditor General in her recent 2002 Special Report.

The nine areas identified by the *Workers' Compensation Act* to be reviewed include:

1. **expansion of disability, within the meaning of the Act;**
2. **the effectiveness and appropriateness of the board administering both the Workers' Compensation Act and the Occupational Health and Safety Act;**
3. **the use of deeming;**
4. **the effect of retirement on entitlement;**
5. **the role and use of indexing of benefits;**
6. **the method and limitations on calculating the maximum wage rate;**
7. **the role and effectiveness of the workers' advocate;**
8. **the adequacy of the system for spouses; and**
9. **any other matters that the Minister may direct.**

Also, to be reviewed are the following issues identified by the 2002 Special Report of the Auditor General of Canada:

1. **the need to address governance;**
2. **improve claims management;**
3. **control increasing claims and administration costs;**
4. **develop and implement creative and appropriate ways of attracting and retaining key personnel;**
5. **strengthen performance reporting to both management and outside stakeholders;**
6. **provide public interest representation on the Board of Directors;**
7. **remove the Chair of the Appeal Tribunal from the Board of Directors;**
8. **require that the President report to the Board of Directors alone and not to the Minister.**

Phase 1

- **The Review Panel is tasked with developing a discussion paper around the issues mandated for review.**
- **The Review Panel will consult with key stakeholders and other interested parties * for their feedback on the issues mandated for review. Written submission outlining the stakeholders' concerns, issues and options will be encouraged.**
- The Review Panel, at its discretion, may bring forward to the Minister, in the discussion paper, other significant issues not mandated for review.
- The discussion paper will clearly identify each key issue and related stakeholders' and other interested parties' points of view. The discussion paper will be available to the public.
- The final discussion paper should reflect the principles of Workers Compensation and be specific to issues that are relevant to the legislation.
- When complete, the discussion paper will be presented to the Minister for review.

*Key stakeholders and other interested parties during the WCB Act Review will be those identified in the 2002 Special Report of the Office of the Auditor General of Canada. Page 6 Section 17 states "In addition to the Yukon Workers' Compensation Health and Safety Board, the key players are the Workers' Compensation Appeal Tribunal (Appeal Tribunal) and the Workers' Advocate. Other players include employers, workers, medical practitioners, providers of rehabilitation services, Yukon First Nations and the Yukon government."

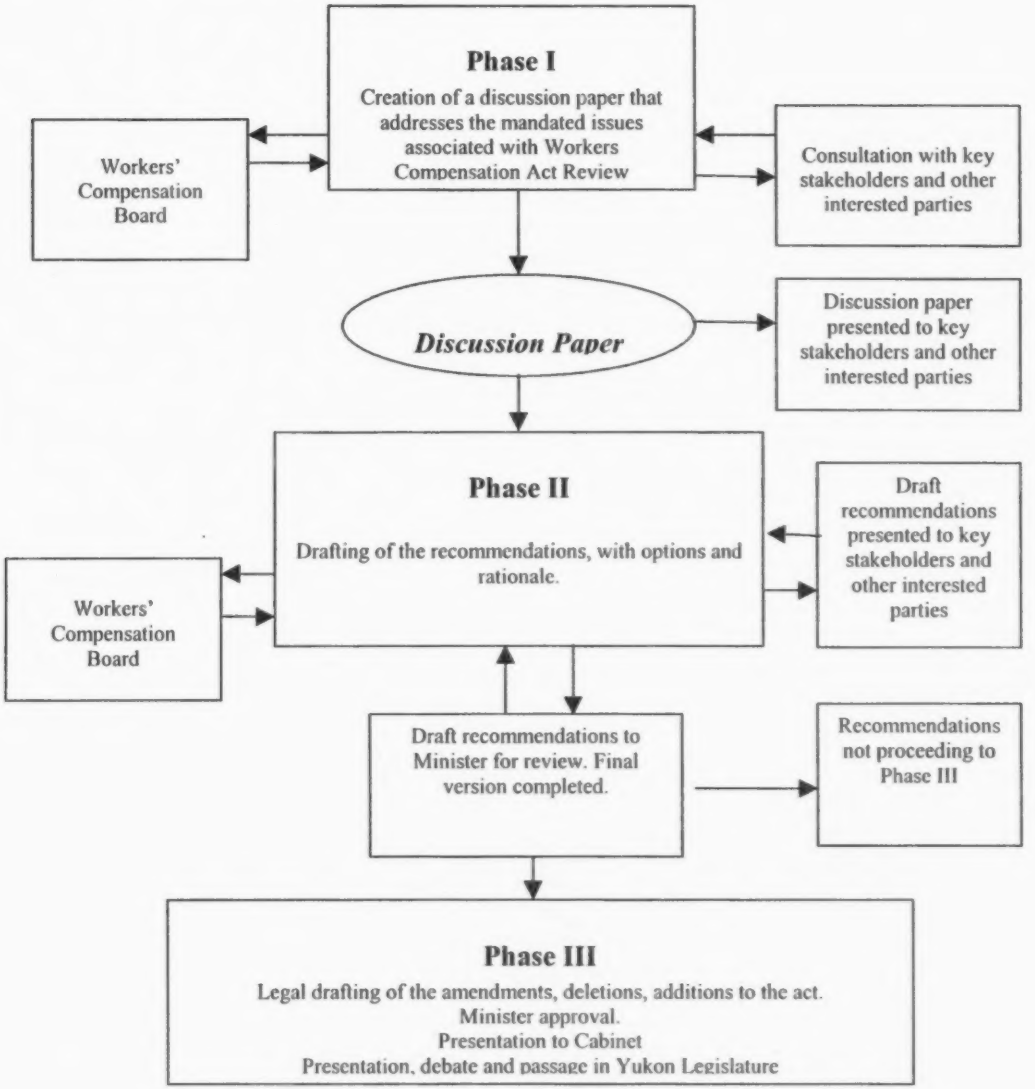
Phase 2

- The Review Panel, with the assistance of a professional consultant(s), will draft a set of recommendations for legislative change, each with rationale and options.
- The Review Panel will present the list of draft recommendations to consulted stakeholders and other interested parties and the Minister. This document will be publicly available.
- The final recommendations, with rationale and options, will be presented to the Minister. The Minister will make the final decisions regarding changes to the legislation.

Phase 3

- Recommendations will be finalized and accepted by the Minister.
- A legal draftsperson, in consultation with the review panel, will then draft the amendments and perhaps additions and deletions, to the Workers' Compensation Act.
- Final amendments, additions, and deletions will be presented to the Minister and Cabinet for approval.
- Final version will be presented to the Yukon Legislature for debate and passage.
- Time frame of Phase I and Phase II will be approximately 12 months, from January 1, 2003.
- Time required for the completion of Phase III will be determined by practical concerns, such as the schedule of the Yukon Legislature.
- Every effort will be made to complete the final phase in an expedient manner.

WCB Act Review


Phase I
Creation of a discussion paper that addresses the mandated issues associated with Workers Compensation Act Review
Workers' Compensation Board
Consultation with key stakeholders and other interested parties
Discussion Paper
Discussion paper presented to key stakeholders and other interested parties
Phase II
Drafting of the recommendations, with options and rationale.
Workers' Compensation Board
Draft recommendations presented to key stakeholders and other interested parties
Draft recommendations to Minister for review. Final version completed.
Recommendations not proceeding to Phase III
Phase III
Legal drafting of the amendments, deletions, additions to the act.
Minister approval.
Presentation to Cabinet
Presentation, debate and passage in Yukon Legislature

Appendix C.

Timeframe

As outlined in the Terms of Reference, the Task Force review is divided into three phases, with the following deadlines:

Phase 1: May – July 2003

- Panel members will ask stakeholders to identify the topics in the Act that should be reviewed. The panel has compiled a list of topics that include those mandated by the 1999 Review, those suggested by the Auditor General, and issues of concern to the panel members. However, it's important that they hear from other Yukoners if there are additional issues that need to be addressed. Once the issues list is finalized, no new issues will be added.
  Deadline for submission of issues: May 30, 2003.

- The panel will compile all Act-related issues into a discussion document and invite stakeholders and other interested Yukoners to submit their comments on any and all of the topics listed. The overall objective is to collect broad points of view about how the Act should be changed to meet the needs of all Yukoners.
  Deadline for comments on issues: July 25, 2003.

2. Analyzing Issues – November 2003 – January 2004.

- This is the time in the review process when public input is synthesized. The panel will draft options, including rationale, for legislative change. These draft recommendations will be presented to the Minister responsible for the Yukon Workers' Compensation Health & Safety Board, consulted stakeholders and any other interested Yukoners. There will be a series of community meetings scheduled to allow you to provide detailed oral or written comment on the options outlined. **Watch local newspapers for details about community meetings*. A final report will then be prepared, which will include all the submissions from Yukoners.
  Deadline for comments on options: early 2004.

3. Drafting Legislation – January – December 2004.

- The recommendations will be finalized and accepted by the Minister. Any amendments, additions and deletions will be made to the *Workers' Compensation Act*. A final version will be presented to the Yukon Legislature for debate and passage.

Appendix D:

Submissions of topics to be reviewed

The following pages contain copies of the submissions made by individuals and groups to the panel. People were invited to provide panel members with Act-related topics they felt should be reviewed.

Yukon Government

WORKER'S COMPENSATION ACT REVIEW
SUBMISSION FORM

Please use the following form to provide your suggestions for topics or issues to be reviewed. We appreciate you taking the time to help the review panel ensure *the Workers' Compensation Act* serves the needs of Yukoners to the greatest extent possible. We ask that you provide your contact information on this form so that we can keep you informed as this review proceeds.

Name MERVEL M. AMBROSE

Address

Phone number

Email address

Would you like us to include you on our mailing list?

Please indicate preference: Canada Post _____ Email _____ Fax _____

We invite you to identify which issues should be reviewed, keeping in mind that the panel is mandated to only look at issues related to the *Workers Compensation Act? *If possible, please reference the section of the Act to which your issue applies.*

PART 3 : COMPENSATION FOR WORKERS
ACT REFERENCE 3
"CRONIC PAIN"

PART 12 : DEFINITIONS
ACT REFERENCE 101
"CRONIC PAIN"
&
"DISABILITY VS. IMPAIRMENT"

Use the back of this page if you require more space.

RECEIVED 27

BY:.....

Yukon Legislative Assembly

Box 2703, Whitehorse, Yukon Y1A 2C6

May 22, 2003

WCB Act Review Panel
Box 2703
Whitehorse, Yukon Y1A 2C6

Dear Panel Members:

Over the past few months, I have had the opportunity to meet with people in my constituency of Mount Lorne, individual workers and other stakeholders, to discuss issues relating to Workers Compensation Health and Safety in the Yukon. I have heard many ideas on how we can improve the already excellent system we have in the Yukon, a system many people have worked hard to create and maintain for the betterment of all Yukoners, especially injured workers.

I am writing to outline a public and social policy issue which I am recommending that the panel address during this act review process. This issue affects the spouse and family of the injured worker and warrants immediate attention.

Any time a worker is injured to the extent that their disability is, or approaches, 100% for a period expected to be greater than two years, the family can experience extreme emotional and financial stress. It would help in situations like this is if the Board would fund career training or upgrading for the uninjured spouse, as well as family counselling, as required.

I appreciate that such changes to the Act would require extensive research and evaluation on the likely costs and benefits. However, from a public policy perspective, I believe they would significantly improve the WCB system in the Yukon.

Thank you for the opportunity to bring the issue of spousal and family benefits and coverage to your attention. I wish you well in your deliberations.

Sincerely,

Steve Cardiff
MLA, Mount Lorne
Official Opposition Critic, WCH&SB

RECEIVED
MAY 22 2003

Patrick.Rouble

From:
Sent: Wednesday, May 14, 2003 1:44 PM
To: wcbactreview@gov.yk.ca
Subject: sorry for the other two this one has the info.

Name: Denis Carriere
Address:
E-mail:
Mailing List: yes
Mailing List Preference: canada post
Fax Number:
Comments:
I have been affected by the bill CL.35. This bill being emposed on me has changed my life for the worse. At the time the bill was applied I had a home,property and a stable life I could count on. It has been a little over 10 months and now I sit without my home, I now have no place to stay and the amount of money you have given me to live on has put even my family in a strain just to keep up. It is really hard at my age to have to ask my family for finacial help. I had my accident over 3 years ago and have jumped threw all of your hoops. In the begining I was not believed that my injury even exsisted, 4 months I was made to feel like I was cheating till a DR Groper discovered that a fragment of bone had in fact broken off. I cant say the amount of damage done in that time of waiting. Here I sit now 3 years later a wrist that doesent work like it used to, very little help with money from WCB no home and unable to pay rent or fix my teeth that have gotten bad over the course of my time in YOUR HANDS.I have had to fight just to get a minamal amount of retraining, I am not the most educated individual I'm a pipefitter that cant do his job. The fact that I only made so much money doesent mean that I dident have other resources. Being from Dawson City the work was limited, we would hunt for food and cut our own firewood. These are things you cant buy at -45 in the winter and liveing in my cabin was a way of life I choose to live. This injury has taken that away from me also. You take a look at who imposed the CL 35 and find out how they live,work and play. Ive been a worker all my life and once I needed help for a reason out of my control and I feel so let down by a system in place I thought was there to help ME. Im 32 this year and constuction was my life. You have offered me very little in the way of retraining. I think what hurt the most were the glimps of hope with all the testing and (yes its possable) I felt that you were on my side and that I could come out of this life changing situation on top,I was wrong. I'm thankful to have a chance to give my views how things were from my side of the fence, I just hope someone cares enouph to pay attention and do whats best for the people that get hurt. Thank you Denis Carriere

Thank you for your input.

You sent the following info/comments:

Name:
Address:
E-mail:
Mailing List:
Mailing List Preference:
Fax Number:
Comments:

Patrick.Rouble

From:
Sent: Friday, May 16, 2003 8:40 PM
To: wcbactreview@gov.yk.ca
Subject: Workers Compensation Act Review

Name: Shelly Hobbis

Address:

E-mail:

Mailing List: yes

Mailing List Preference: email

Fax Number:

Comments:
Act 3, Act 22, 23, & 30, Recognition of non earning benefits, & Act 34 (1)

I believe that these areas need to be looked at in the Act review.

1. Calculation of pre-accident earnings (Immediately before)
2. Process to lodge complaint of poor treatment by WCB.
3. After worker has been disabled for longer than 180 days they shou ve an introduction to the system by the Workers Advocate Office.
4. Lawyers, doctors and computer people should all be wcb not contra
5. Guarantee, when away from home because of wcb, receive 30 min of phone time and flight either back or family down every 4 week.
6. Ability to withdraw annuity and that upon death it is paid to estate
7. Raise PPI to $120,000 for 100%
8. Wage increases for learners and apprentices who become injured, es should continue as if in trade.
9. Ability to see employers safety and claims cost information
10. Annual Information meeting 1st week of September not left floating
11. Employee consultant at $250,000 same as chamber
12. When act is changed the board should find effected workers and pa n not wait for them to come and ask.
13. ability to payout as full and final
14. put EI, CPP and WCB in earnings
15. Independant Legal opinions, not in-house. This metho is seen to be opinionated, and the results are in the best interests of WCB. Whenever a legal opinion is required, it should be contracted out to a local firm, and all parties involved be allowed access to it. The firm should have no ties with the WCB.

R Kay

RECEIVED
MAY 9 2003
BY:----------

Issue Identification

Comments Received from callers to Panel Voice Mail

Some Applicants can't afford to pay for medication in advance.
Adjudicators put applicants through a lot of stress.
Appeals process is hard on injured workers.
Mr. Fred Smith

Legal Opinions should be obtained from outside legal council and should be made public.
The board needs to be neutral.
Mr. Robbie King

Patrick.Rouble

From:
Sent: Thursday, May 29, 2003 10:41 AM
To: wcbactreview@gov.yk.ca
Subject: Workers Compensation Act Review

Name: Shirley LaRoy

Address:

E-mail:

Mailing List: yes

Mailing List Preference: email

Fax Number:

Comments:
section on wage loss benefits.
Currently injured workers whose pre-injury income is over the maximum compensation limit are at a disadvantage as far as compensation goes. Relatively speaking, they are compensated at a lower percentage than workers whose pre-injury earnings are under the limit. I believe that injured workers should be treated equitably in this regard and presently they are not. Every year, the maximum compensation limit is adjusted upward, but those workers never enjoy the increase. They only get a small Cost of Living Adjustment. I would like to see the Act changed so that those higher income injured workers would see their compensation adjusted upwards annually as the maximum compensation amount is adjusted until the maximum compensation reaches their indexed pre-injury income. In this way, those workers would start to see closer to the same percentage compensation payments. To be really equitable, every injured worker should receive the same percentage benefits of their pre-injury income, but that would be too much to ask I'm sure and I have no argument with the $16,000/yr people getting 100%.

Jan. 27/2003

Att: Appeals-Registrar-Claudia Morgan

While on duty with the Whitehorse Fire Dept. on Dec. 15th I broke my glasses at a fire call that night. On the morning of the 16th Dec. 2002 I went to your office & had your people fill out a claim form for me as I could not see to do it myself without my glasses. I was then given a claim no. – 2002-1507.

I then went to Vision Express Optical to have new glasses made.

My new glasses arrived Jan. 8th 2003 & Vision Express put this bill in for my glasses replacement and my claim for replacement was denied by you people & I was told due to the fact that I did not take any time off of work they were not going to pay for my glasses.

Referring to your letter dated Jan. 15/2003 it took 23 days to get my replacement glasses. Driving is a requirement as part of my job & my driver's license is marked Must Wear Glasses When Driving.

I feel that because I did not take the 23 days off & the Comp. Board did not have to pay my wages for that time & I don't know any doctor in Whitehorse who would give me that time off work to satisfy Compensation requirement to have these glasses paid for by you people.

Regardless of what excuses you people come up with the long & short of it all is it happened on the job & I believe Comp. should pay for the glasses.

Sincerely,

Don McQuillen
Jan. 27/2003

P.S. I have read the excerpts of the Act provided by you and it does not indicate & exclusion of my claim because there was no time lost from work.

Patrick.Rouble

From:
Sent: Monday, May 12, 2003 11:48 AM
To: wcbactreview@gov.yk.ca
Subject: Workers Compensation Act Review

Name: Ian D. Robertson

Comments:
I would like to offer the following comments:
It is important that we not lose sight of the goals, objectives and fundamental principles that underlie the intent of the legislation and process. In my mind, there are two primary goals - the prevention of worker related injuries and provision of a timely, fair, objective and economic injury compensation system that balances worker/employer needs and responsibilities. In the discussion of the Act, the focus appears to be on detail without proper context perhaps because most employers are unfamiliar with the legislation and only see and react to cost increases and issues such as the cost overruns to put in a new data management sytem. What surprises me is that we all seem to be reinventing the wheel and there are no two data management systems alike across the country. The argument cited for this dysfunctional set-up are the differences in legislation. This is a poor excuse.

For the system to work properly, all Boards rely on incredible volumes of statistical information both to identify and project trends from a cost perspective and to identify potential problems and risks. In a jurisdiction of the size of the Yukon, we are always referring to other jurisdictions for reference so it is absolutely critical that we have a proper data management system in place. This issue does not seem to be included in the review and it should be.

On a similar vein, the Minister,Board and Auditor General have raised concerns about accountability and performance measurement. This also involves data collection and monitoring as well as setting appropriate targets. In the annual report, we see statements such as our cost of administration in relation to other boards but we do not discuss whether this is really an appropriate measure (apples/oranges argument) or a diversion away from the core issue of whether the administrative costs are appropriate relative to the operation being run in the Yukon.

There is no mention as to whether this review will consider looking at amalgamation with another jurisdiction. I know the NWT/Nunavut WCB looked at this as I discussed the matter with Grant Hinchey the former chair. I suggest that you interview Mr. Hinchey who can be reached at in Yellowknife or by e-mail at . It seems to me that if size is an issue and there are appropriate economies of scale they should be considered.

There is no discussion of why the Government of Yukon is considering pulling out or what the ramifications would be since government is the largest employer. It is also interesting to note that while they complain that their assessments are not in line with the true costs, there is a substantial difference in wages between the private sector and government so when a claim is made, they actually receive a higher benefit. For small business, the difference in wages can be up to 30%.

WCB is intended to be a service organization both for the employer and the worker. I note that the Board is uncomfortable responding to an appeal tribunal decision within 30 days (sec.19). It is my view that standards of performance should be set out as policy or regulation and include time limits for all aspects of service. For example, on a rather trivial assessment matter, I have been waiting since April 7th for a response or even a courtesy call to say, hey we need a bit more time for this reason and will have an answer by a specified date. I would hate to be a claimant!

I find it odd that decisions are being made that are inconsistent with the Act and that there are irregularities between the Act, Regulations and Policies (sec 18.3.2, 18.4.1, 9.5) This doesn't make sense as any student of administrative law would know. Someone isn't doing their job or there is some sort of interference going on.

I agree that the option for mediation should be available (sec 11,17,18).

I am very concerned that the definitions section is out of date and incomplete. I agree that a definition of chronic pain and stress is needed but am very concerned that this will open a floodgate to new claims that are very difficult to prove and disprove (sec 3 101).

While it makes sense to index benefits to the cost of living, it does not make sense to index benefits to potential earnings from assumed promotions etc. This is a very tricky issue with considerable case law. Again, I think we return to the principle that the benefits should allow a disabled person to live with dignity and as much independence as possible without being a burden to their family and community (sec 34.1)

The question of incentives and disincentives has to be looked at carefully. It makes sense to apply incentives where the objective is improve behaviour but one should not be rewarded for doing the minimum or simply fixing bad behaviour. If a company has a bad track record, the burden of their behaviour should not be reflected against all members of that class but should be assessed against the firm that is not behaving appropriately. Again, good record keeping is essential to track problems and cut them off at the pass before they become bigger issues. The bottom line is that if we improve all performance, everyone benefits through lower assessments and less use of the service. Since medical costs will continue their inevitable rise, a holistic approach should underpin the operations of the Board.

I am not comfortable commenting on the use of deeming (sec 22,23,30) because I do not know enough about the issue.

In preparing the review, it is important that the reason something is considered an issue is spelled out clearly, the history given and options discussed. How is that issue handled elsewhere, what are the financial implications etc.

I would also like to see a discussion of board investment policies and the options available. It has been suggested that with rising claims the Board does not have enough funds to cover future liabilities. Thus controlling costs and claims is one half of the equation while how we invest Board funds is another. As we have seen in the insurance industry, there are significant premium increases occurring because investment returns have not met expectations. We have also seen some disasterous investments with CPP. However, there are some "safer" investments that the Board could consider that may result in modest but significant improvements in investment return. For example, public infrastructure renewal whether through bonds raised for specific projects (e.g. airports in the US), toll highway construction, power plants etc. offer possibilities with relatively low risks. I would like to see this subject discussed in the review.

I agree with the auditor general that the present reporting relationship is confusing and not very practical. It is impossible to serve two masters - the Minister and the Board. we need a better solution.

It also seems to me that the need for a workers and employers advocate is an admission that the system is not working properly or as effective as it should. I do not oppose the idea of keeping such positions because both worker and employer are generally ill-equipped to stickhandle a situation through the process. However, I do believe we have to look behind the issue and identify symptom and cause to determine what changes need to be made to make the process work more effectively for all.

The Review panel's chair writes in his letter dated May 7th that we also have to remember that the "system is based on compromise". This is only true to the extent that the system was put in place for the benefit of both parties and the legislation reflects the success of the arguments of the day when the legislation was enacted. However one must exercise caution in accepting a position of compromise at the outset because it changes the focus and flavour of the review to that of a negotiation among stakeholders. In my view, when a review is undertaken you go back to and examine all the founding principles and goals to make sure they are not forgotten or assumed. Consensus at this point is more relevant than at the debate stage on a specific amendment. It also means that when one is trying to determine what the appropriate solution from a range of options might be, that the focus of what the legislation is really trying to achieve is not lost. It is much easier to agree with a specific change and share the collective responsibility/liability, if i know the respective checks and balances are in place on both the worker and employer sides and within each class. like most employers, I also believe each worker has a responsibility for their individual and collective health and safety. For example, if I am overweight, smoking and undertaking behaviours that increase my personal risk or the risk to my fellow workers and get injured because of it, I do not expect my employer or the WCB to assume the responsibility for such behaviour. I do expect the employer to have health and safety programs/procedures in place appropriate to my industry but there is still a personal responsibility to behave appropriately. This aspect doesn't seem to receive the appropriate emphasis and it makes it difficult to deal with emerging compensation issues like stress. Take for example this scenario. The worker complains of stress in the workplace. An examination of the persons lifestyle reveals an inappropriate lifestyle - living beyond their financial means, not taking care of their health, marital problems, working an extra job and stress from their present position because their supervisor is getting on them regarding poor performance, too many sick days etc. The worker goes to their family doctor and gets a letter confirming they are "stressed out" and need time off. Who should pay and to what degree is their stressed condition really work related or a matter of the worker not taking responsibility for their own lifestyle?

Some illnesses are difficult to determine and assess objectively. Similarly, unless a holistic approach is taken, the real reason the injury occurred may not be detected. For example, worker fell and broke leg would seem relatively clear cut. Worker admits to being "distracted" and site investigation reveals no particular reason this should have happened. Do we investigate further or just deal with the claim in terms of the outcome - a broken leg. many disputes arise when a worker argues they are permanently disabled and cannot work while the Board feels they can be "retrained" in another occupation. A whole health approach will only work if there is recognition by all parties of their responsibilities.

I hope these initial comments help.

ian D. Robertson

THE WORKERS TASK FORCE

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WHITEHORSE, YUKON Y1A 2N2

PHONE: (867) 667-2473
FAX: (867) 667-7112

May 27, 2003

Patrick Rouble
Chair, WCB Act Review
Government of Yukon
A-11

Dear Mr. Rouble:

Please be advised that the Workers' Task Force would like to add the following issues to the Act review:

- Definition of "consult" (Section 92.(5) and Section 18.1(5).
- Section 91.(3).
- Employee right to sue employer for any condition that arose out of or in the course of employment that is not provided for under the Act (Section 3).
- Employee and or Worker Advocate to have standing at assessment hearings (Section 68) and OHS hearings (consequential amendment to OHS Act).
- Employee right to sue Board for damages caused or exacerbated by the Board's actions.
- Awards for pain and suffering.
- Gender choice for medical consultant.
- Cap on maximum compensation and maximum assessment.
- Spousal rights to retraining for seriously injured workers.
- Add Worker Advocate to Section 18.5(1).
- Establish time limit for Section 18.3(10).
- Employee Consultant (Part 10 – Miscellaneous).
- Disclosure of all information held by the Board and its contractors including audio and video surveillance.
- Continuation of benefits during appeal period.
- Ensure workers receive greater than or equal to any amount paid to an employer under s25 agreement
- Obligation to re-employ
- Permanent Partial Impairment raise from current level.

Sincerely,

James E. Brohman
Chair, Workers' Task Force

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MAY 2[illegible]2003

YUKON CHAMBER OF COMMERCE

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May 30, 2003

Mr. Patrick Rouble, Chair
Workers' Compensation Act Review Panel
Box 2703
Whitehorse, Yukon
Y1A 2C6

Re: Workers' Compensation Act Review
Submission of Issues for Review

Dear Mr. Rouble,

In consultation with our membership and on behalf of the business community, the Yukon Chamber of Commerce has identified the following issues and areas we believe require review during the *Workers' Compensation Act* review process:

1. Limitation on what aspects of the board decisions can be appealed to the Appeal Tribunal. This would allow the board to deal with general issues on a timelier basis and with more finality to them. Such issues as:
    i. Vocational rehabilitation decisions made by the board concerning eligibility, nature and extent of the services provided.
    ii. Decisions made by the board concerning the eligibility, nature and extent of any allowances or similar expenditures which the board has the discretion to provide including; clothing allowance, personal care expenses or allowance, transportation allowance, etc.
    iii. Decisions applying the indicated percentage of impairment of earnings capacity for a permanent impairment providing the specific percentage of impairment have either no range, or a range that does not exceed 5%.

2. Current structure of the overall compensation system. Is the board of directors effective and efficient? Should we look at other governance systems, such as a Board of Governors who would have a more hands on approach to governing the system? Do we need to have such a large management structure at the board? Are there other alternatives? How can we make the overall system more effective and efficient?

3. Should the board be allowed to commute an injured worker's pension or a dependant's benefits? Currently there are instances when injured workers are requesting that their pension or other benefits be commuted, in lieu of receiving monthly pensions.

4. The structured employee relationship between the Board and the Government of Yukon needs to be removed to allow the board to attract and retain key personnel.

5. The current consultation process as outlined in the Act for dealing with new and amendments to policies is ineffective and too costly. The Act needs to be changed to allow the Board to deal with emerging issues on a timely basis and review all of the old policies that have not been reviewed since the last major Act amendment.

6. Review of YTG's assessment calculations and the administrative costs they pay to the Board and the overall impact to the fund.

7. Payments to employers – Section 25 of the Act currently states "If the worker receives earnings in respect of a period of disability, the board may pay to the worker's employer an amount equal to the compensation to which the worker would have otherwise have been entitled." Recommend the word "may" be replaced by "shall".

We thank you for the opportunity for input into this very important process and we look forward to participating in Phase 2 of the review.

Yours truly,
YUKON CHAMBER OF COMMERCE

Sandy Babcock

Sandy Babcock, Executive Director

YUKON CONTRACTORS ASSOCIATION

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CONTRACTORS ASSOCIATION
WHITEHORSE-YUKON
MEMBER

May 28, 2003
Workers' Compensation Act Review
Box 2703
Whitehorse, Yukon
Y1A 2C6

BY:.....

Dear Review Panel

Our Association is pleased to participate in the WCB Act Review. We would like to add the following to the list of topics to be reviewed.

1) A system needs to be in place to investigate fraudulent claims.
2) The compensation system has to be efficient and accountable for administration costs.
3) Review of YTG's assessment calculations compared to their claims costs.

Thanks for the opportunity to be heard and good luck with the review.

Cordially,

Jennifer Byram

Jennifer Byram
President

Yukon

Public Service Commission
Box 2703, Whitehorse, Yukon Y1A 2C6

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BY:----------

May 30, 2003

Patricia N. Daws
Public Service Commissioner
Yukon Government
P. O. Box 2703
Whitehorse, Yukon Y1A 2C6

Patrick Rouble
Chair, Workers Compensation Act Review Panel
WCB Act Review (WCARP)
PO Box 2703
Whitehorse, YT Y1A 2C6

Dear Patrick Rouble:

Thank you for providing the report on issues that the Review Panel has collected so far for review. I am pleased to have this opportunity to provide you with a listing of the issues that are of key concern to the Yukon government in our role as employer of approximately 3600 individual members of our workforce.

I wish to express one concern with this initial stage of the review process. Because of the very short time provided to prepare our input on issues for your panel's review and consideration, we were unable to consult in a meaningful and thorough manner with the twelve departments and their related crown corporations. Although the Public Service Commission has central responsibility for Workers Compensation Health and Safety administration, much of the real management of worker injury issues resulting from a Workers Compensation claim takes place in the departments with managers and departmental human resource staff.

We hope that we have captured the key issues but we wish to express our concern that we may have missed important impacts of the current *Workers Compensation Act* as it is experienced from a departmental perspective. This concern is greater because we understand that no issue will be considered for review if it has not been identified by May 30, 2003.

We look forward to the opportunity to provide further input on the issues and potential solutions as you carry out your review of the *Workers Compensation Act.*

Thank you again for providing the opportunity for this initial input into your review.

Yours truly,

Patricia N. Daws
Public Service Commissioner

WORKERS COMPENSATION ACT REVIEW

Yukon Government Issues for Consideration

1) **Accountability**

The *WCAct should address the requirement for meaningful and complete reporting to employers and the public on WCB operations such as:*

- Requirement to provide sufficient financial information to employers, minister and public to explain and justify assessment rates, administration costs, maximum wage rate and employer subsidies.
- Requirement to provide regular, meaningful reports to individual employers on their specific WCB experience so that employers can establish effective accident prevention and leave management programs
- Requirement to provide meaningful WCB program information to explain where funding is being distributed to assist employers with the implementation of effective OHS programs, accident prevention procedures and case management strategies. Current statistics identifying number of worksites inspected and orders issued annually are of little value to employers
- Requirement to provide information on which individual assessment rate is based and calculated and rationale for any change to assessment rate
- Requirement to set parameters and communicate to employers on access to WCHSB funding for OHS programs or accident prevention activities (such as funding provided for formation of local Construction Safety Association).

2) **Appeal Process**

The WCAct should ensure fairness, principles of natural justice, consistency and administrative efficiency in the appeal processes under the Act.

a) Employer Appeals

- Process should require that all necessary information held by WCB related to assessment rate calculations and revisions be provided to the employer so that the employer can assess its position and make an informed determination on whether to appeal the assessment rate and put forward an informed case for appeal of assessment rates.
- Process for OHS appeals limitation to 21 days after an inspection order is issued should be reviewed. This is often not enough time for the employer to review an order and consult with the appropriate parties before responding (OHS Act section 29). However, it can take up to a year before a Board decision is reached which may indicate that it is not time-effective for the current Board panels to hear both OHS and claims appeals.
- Process should clarify the role of the Workers Advocate in employer-initiated appeals and access by employer to employee information on a disputed claim.

b) Employee Appeals

- Time limitations on employee appeals should be considered. There should be time limits for accepting employee appeals of claim decisions and clear criteria if any claims are going to be accepted beyond the prescribed time limitation.

3. **Claims Management**

A key principle for claims management should be joint case-management with the employer to support rehabilitation and the earliest possible early reintegration to the workplace whenever possible.

- Should be consistent interpretation of Act based on clear policy and directives for claims management (As noted in Auditor General's report, 2002)
- Claims management should require immediate notification to employer of an employee claim
- The role of WCHSB Service Teams and the assistance they provide to employers and to workers should be clearly communicated to the employer.
- Should address conflict of interest in managing claims by WCB employees and should have mechanism for using outside adjudicators
- Should have clear criteria, definitions and consistent approach for 'stress-related' claims and stress-based claims for employees facing termination should not be allowed.
- Should establish consistent basis for considering claims on newly emerging hazards, for example, multiple chemical sensitivity.

4. **Role or Worker and Employer Advocates**

These roles, which both prescribe and imply advocacy and adversarial positions for employers and employees, should be reviewed to determine whether they are required if the principles on which a Workers Compensation Board is based are operating effectively.

- Roles should be reviewed for effectiveness and for scope
- Roles and authorities of the Worker and Employer Advocates should be clearly communicated to the employer.

5. **Rehabilitation Services**

Service should have greater involvement and coordination with employer at earliest possible point to maximize opportunity to return to work with that employer.

- Joint WCHSB/employer case management model should be mandated, developed and implemented.

YUKON WORKERS' COMPENSATION HEALTH AND SAFETY BOARD

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FILE NUMBER:

May 29, 2003

Mr. Patrick Rouble, MLA
Chair of the WCA Review Panel
Box 2703
Whitehorse, Yukon
Y1A 2C6

Fax: 867-393-6202

Dear Mr. Rouble,

Thank you for your letter of May 26, 2003. Your letter indicates that the timeframe for submitting issues to the Panel for consideration in the review of the Workers' Compensation Act will not be extended.

We are disappointed, as we hoped to obtain the input of our stakeholders through the advisory committees to ensure there were no gaps in the issues to be presented. The timeframes have made this impossible.

At the same time, we are also aware that the list of issues will need to be published extremely quickly if people are to be given sufficient time to consider the matters. This is particularly important given the relatively short second deadline of July 25, 2003, for comments on the complete list of issues.

Accordingly, attached please find a list of policy-based issues that we would recommend for inclusion in the list of issues to be reviewed by the Review Panel. Please note that while there may be some overlap in the issues presented by the Review Panel, this does not imply that the Board concurs or otherwise with the list presented by the Panel.

This list is preliminary; other issues may arise as we consider the matters raised in your next report which we hope you will consider in your final recommendations. In addition, more technical amendments may arise which could be addressed in the drafting stage.

We are open to any questions you may have about these issues, and are prepared to provide any clarification you may wish to seek.

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As a Board, we are committed to helping facilitate the important work of your Panel in any way we can.

We also appreciate that our input is being sought and will continue to be sought. We are looking forward to working with you in the future as the process unfolds.

Yours truly,

Craig Tuton,
Chair

cc: Members of the Board
Members of the Review Panel
Honourable Peter Jenkins, Minister Responsible for Yukon WCHSB

2003 Act Review
Possible Issues to address

The following is a compilation of issues identified as being considered for legislative amendments. In order to facilitate the discussion, an attempt has been made to divide these amendments into high, medium or low priority from the perspective of the impact on the administration of the workers' compensation system.

Policy-based

Issue	Sec.	Priority	Rationale
Appeals			
Absence of limitation dates	17; 18	High	While there may have been a "backlog" of cases when the new appeal system was first set up in 2000, the system requires some certainty. Most jurisdictions have time limits on appeals.
Standing of WCHSB at Appeal Tribunal	New	Medium	Right now the board is not a party and cannot make a submission. This is particularly problematic when reviewing cases that go back many years when decision-writing standards were different, but it may also cause additional problems in the future.
Board ability to seek clarification of decisions	New	Medium	From time to time an appeal tribunal decision may require some clarification or interpretation before it can be implemented. In these cases the Board needs the ability to send the decision for clarification or interpretation, with a corresponding ability to suspend the timeframes while clarification is obtained.
Implementation deadlines extremely short	19.1	High	The cumulative impact of a number of decisions being released within a short timeframe can stretch the resources of the compensation system to the limit. Tribunal has 45 *working* days to issue a decision; Hearing Office has 30 *working* days; Board has 30 *calendar* days to review and to implement or have a plan.
Governance and Independence of the Board			
Reporting relationship of the President,	100	High	Clarify reporting relationship to the Board; need to avoid potential conflict between duties of President under this Act & duties of

Issue	Sec.	Priority	Rationale
including deputy head			deputy head under the *Public Service Act*.
Maximum Wage Rate	101	High	Formula must be kept simple, to avoid confusion. Need to recognize limits of Stats Can data, particularly around timeliness.
Powers of the Board and link to Objects of the Act	1, 93	Medium	It may be helpful to ensure a clear link between the Objects of the Act and the responsibilities of the Board, in areas such as solvent compensation fund, etc.
Financial Administration Act (FAA) and independence of the Board	46	High.	A number of parts of the FAA apply to the WCHSB, including parts that address things like Management Board and its role, public accounts, revenue, expenditure and statutory authority, payments, assets and investments, liabilities, enforcement, and miscellaneous (including appropriations). While some provisions clearly do not apply, it is not clear how the other FAA provisions are applicable or why they are needed. Some sections could simply be imported into the Act, if legislative authority or protection is needed.
Relationship with Yukon Government	New	High.	Clarify the arms' length relationship established by Meredith, consistent with other suggested amendments.
Benefits			
Definition of disability, particularly in relation to issues such as chronic stress & chronic pain	101	High	Right now the definition of disability is broad and there is lack of certainty around issues such as chronic pain and stress. This includes the possibility of a worker receiving compensation because she or he is being fired, being laid off, being evaluated, or other legal employer-employee interaction and claiming compensation for stress.
Defining earnings	23, 24	High	Clarify this area, particularly with relation to the definitions section and "average weekly earnings".
Minimum compensation levels - should all minimums be the same? Should method for setting be	Various	Medium	Right now there are different minimum levels of compensation - the volunteers are spelled out in legislation; regular workers are spelled out by Board order; and minimum level optional coverage is set by policy. There may be valid policy purposes for having different minimum rates but this should be considered.

Issue	Sec.	Priority	Rationale
the same?			
Clarify interplay between s. 22 and 23	s. 22 & 23	High.	Many jurisdictions have a short-term and long-term disability rate, to accommodate seasonal workers and to ensure that workers are not paid more when suffering a work-related disability than they would have earned while working. Some do this through policy and others through legislation.
Procedures and Processes			
New evidence	11	High	Clarify that new evidence that may affect prior decisions of a hearing officer or appeal tribunal should be dealt with by an adjudicator.
Clarify that board can terminate compensation, not just suspend or reduce	7	Medium	Clarify language.
Obligation to re-employ	New	High	Right now there is no obligation to re-employ, even for large employers. This can leave issues around "accommodation" and "undue hardship" up to the Human Rights Commission process (much longer than compensation). Other jurisdictions include a version of this and have time periods built in. (There will be questions around how to deal with seasonal industries, balanced with the length of continuous employment, enforcement and monitoring, and the size of business.)
Ability to remedy problems with prior years' legislation, policies or orders	96	High	Consider clarifying methods to allow the Board to address unanticipated problems that may arise under old policies or orders. Similar clauses can be found in some jurisdictions.
Review most cost-effective way of dealing with different	90 (?)	High	Should we be looking at a different system, to minimize the need to administer different pieces of legislation and policies in their entirety? A strong cost analysis would be needed; there may not be

Issue	Sec.	Priority	Rationale
pieces of legislation and policy			a good model out there; legislation by exception can be just as hard to administer.
Relationship between board and other insurers	New	Medium	See if there is a way to clarify the relationship between the board and other insurers. This would help expedite resolution where a claim may be non-work-related but a decision by the WCHSB is required before another insurer will pay benefits.
Alternative Dispute Resolution	New	Medium	Currently there is no provision for alternative dispute resolution. This may be a useful tool to resolve issues or complaints at an early stage.
Assessments			
Director Coverage	101	Medium	Clarify treatment of directors, particularly multi-company directors so that assessments do not have to be paid with respect to each and every company.
Penalties for late or non-reporting	New	Medium	There would be new penalties for late filing of Confirmation of Assessment. In addition, there may be a need for penalties when using different payroll reporting methods, to ensure timely reporting (particularly when a company switches to Actual Reporting rather than Estimated Reporting, and then does not report the actuals).